



California State Board of Pharmacy

1625 N. Market Blvd, Suite N 219, Sacramento, CA 95834
Phone (916) 574-7900
Fax (916) 574-8618
www.pharmacy.ca.gov

STATE AND CONSUMERS SERVICES AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
GOVERNOR EDMUND G. BROWN, JR.

Legislation and Regulation Committee

Shirley Wheat, Chair, Public Member
Ramón Castellblanch, Public Member
Deborah Veale, RPh
Tappan Zee, Public Member

LEGISLATION AND REGULATION COMMITTEE

The Legislation and Regulation Committee did not meet during the last quarter.

PART II: LEGISLATION REPORT

a. Board Sponsored Legislation

ATTACHMENT 1

SB 431 (Chapter 646, Statutes of 2011): Pharmacies - Regulation

In January 2010, the board voted to pursue legislation to improve the board's enforcement tools as well as to better define the return of medicine via reverse distributors. Many of these provisions are incorporated in SB 431 as chaptered. Below are the specific code sections:

- a. §4104 – Licensed Employee, Theft or Impairment, Pharmacy Procedure
Amend to clarify that a pharmacy shall provide the board, within 14 days, evidence of a licensee's theft or impairment. Require a pharmacy to conduct an audit to determine the scope of a drug loss and to provide the board with a certified copy of the audit results.
- b. §4105 – Retaining Records of Dangerous Drugs and Devices on Licensed Premises; Temporary Removal; Waivers; Access to Electronically Maintained Records
Amend to specify the time period for which records shall be provided to the board when requested by an inspector or authorized representative of the board.
- c. §4112 – Nonresident Pharmacy; Registration; Provision of Information to Board; Maintaining Records; Patient Consultation
Require that a nonresident pharmacy cannot allow a pharmacist, whose license has been revoked in California, to provide pharmacist related services to Californians.

In its original form this bill included provisions related to the return of medicine via reverse distributors. These provisions were amended out in August to remove opposition to the bill. The bill was approved by both houses and was signed by the Governor on October 9, 2011. The provisions of the bill will take effect January 1, 2011.

Current Status: Chaptered

Senate Bill 943 (Chapter 350, Statutes of 2011) Omnibus

At the October 2010 Board Meeting, the board voted to pursue an omnibus provision to eliminate a reference to the previous pharmacists examination in Business and Professions Code section 4200. This provision is contained in Senate Bill 943.

This bill was signed by the governor on September 26, 2011. The board's provision will take effect on January 1, 2011.

ATTACHMENT 1 contains a copy of SB 431 as well as relevant portions of SB 943.

b. Legislation Introduced Impacting the Practice of Pharmacy or the Board's Jurisdiction

1. Controlled Substances

ATTACHMENT 2

AB 507 (Chapter 396, Statutes of 2011): Pain Management

Version: As amended, July 1, 2011

Summary: As chaptered, this measure conforms findings and declarations and other references to severe chronic intractable pain and to the California Intractable Pain Treatment Act.

Current Status: Chaptered.

Attachment 2 contains a copy of the bill.

2. Reporting Requirements/Records

ATTACHMENT 3

AB 1280 (Hill): Ephedrine - Retail Sale

Version: As amended, August 15, 2011

Summary: The bill contains provisions requiring the secure storage and monitoring of products containing any amount of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, as specified. This bill proposes a real-time tracking system beginning on or after July 1, 2012 through December 2018.

Board Position: Watch (As amended May 26, 2011)

Current Status: This measure was held under submission during the August 15, 2011 Senate Appropriations Committee and became a two-year bill.

SB 360 (Chapter 418, Statutes of 2011): Controlled Substance Utilization Review and Evaluation System

Version: As amended, July 7, 2011

Summary: This bill will change the requirements for security printer forms to include the address of the prescribing practitioner and establish the process by which health care providers may obtain approval to access information regarding the controlled substance history of a patient. This bill also expands the requirements for authorized printers of security forms managed by the Department of Justice.

Board Position: Watch

Current Status: Chaptered

SB 850 (Chapter 714, Statutes of 2011, Leno) Medical Records: Confidential Information

Version: As Amended, September 1, 2011

Summary: This bill would require an electronic health or medical record system to automatically record and preserve any change or deletion of electronically stored medical information, and would require the record to include, among other things, the identity of the person who accessed and changed the medical information and the change that was made to the medical information.

Board Position: None

Current Status: Chaptered

Attachment 3 contains a copy of each of the above measures.

3. Healing Arts/DCA

ATTACHMENT 4

SB 541 (Chapter 339, Statutes of 2011, Price) Regulatory boards: Expert Consultants

Version: As amended, June 21, 2011

Summary: This bill would authorize boards to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts described, to provide enforcement and examination assistance. The bill would require each board to establish policies and procedures for the selection and use of these consultants.

Board Position: Support

Current Status: Chaptered. This bill was an urgency measure and as such was effective immediately upon signature of the Governor.

Attachment 4 contains a copy of this measure.

4. Other

ATTACHMENT 5

AB 389 (Mitchell): Bleeding disorders - blood clotting products

Version: As amended, March 30, 2011

Summary: This bill would impose specified requirements on providers of blood clotting products for home use for products used for the treatment and prevention of symptoms associated with bleeding disorders, including all forms of hemophilia.

Board Position: Oppose

Current Status: This measure was moved to the inactive file September 1, 2011.

AB 604 (Chapter 744, Statutes of 2011, Skinner): Needle Exchange Programs

Version: As amended, September 2, 2011

Summary: This bill would authorize, until January 1, 2019, the State Department of Public Health to approve certain entities, after consultation with the local health officer, law enforcement officers and others, to provide hypodermic needle and syringe exchange services in any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling infections that are spread through the sharing of used hypodermic needles and syringes. Such authorization will be for a two year period, unless reauthorized.

Board Position: Support (April 5, 2011 version)

Current Status: Chaptered. The governor provided the following signing message:

To the Members of the California State Assembly:

I am signing Assembly Bill 604, which allows qualified entities to apply directly to the Department of Public Health to provide hypodermic needle and syringe exchanges where rapid spread of HIV and other diseases is likely. The legislation authorizes the department to approve applicants, only after holding a public comment period, consulting with local public health and local law enforcement officers, and carefully balancing both concerns and benefits.

The Department of Public Health will issue regulations to clarify the application process and criteria. I am directing the department to administer AB 604 in a constrained way, working closely not only with local health officers and police chiefs, but with neighborhood associations as well. I believe that AB 604 can reduce the spread of communicable diseases and the suffering they cause and, at the same time, respect public safety and local preference.

SB 41 (Chapter 738, Statutes of 2011, Yee): Disposal of Hypodermic Needles and Syringes

Version: As amended, August 15, 2011

Summary: This bill would allow, until January 1, 2015, a physician or pharmacist to furnish 30 or fewer hypodermic needles and syringes solely for personal use to a person 18 years of age

or older. The bill addresses the storage of products to ensure they would be available only to authorized personnel, would require that disposal options are provided to consumers, and would require pharmacies to provide written information or verbal counseling at the time of furnishing on how to access drug treatment.

Board Position: Support If Amended

Current Status: Chaptered

SB 514 (Chapter 199, Statutes of 2011, Simitian): Dextromethorphan - sale to minors prohibited

Version: As amended, May 10, 2011

Summary: This bill would make it illegal to sell dextromethorphan to a person under the age of 18 without a prescription.

Board Position: Support

Current Status: Chaptered

AB 1424 (Chapter 455, Statutes of 2011, Perea) Franchise Tax Board: Delinquent Tax Debt

Version: September 2, 2011

Summary: This bill would require the State Board of Equalization and the Franchise Tax Board to each make available a list of the 500 largest tax delinquencies described above at least twice each calendar year. This bill would require the Franchise Tax Board to include additional information on the list with respect to each delinquency, including the type, status, and license number of any occupational or professional license held by the person or persons liable for payment of the tax and the names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation. This bill would specify that a license may be suspended for failure to pay tax delinquencies.

Board Position: Oppose

Current Status: Chaptered

A copy of each bill is provided in **Attachment 5**.

5. Additional Legislation Impacting the Board or its Regulatory Jurisdiction

The public will have an opportunity to discuss other legislation.

Education to Licensees

ATTACHMENT 6

Provided in **Attachment 6** are code sections that were added or amended during the 2011 Legislative Session. All these provisions go into effect January 1, 2012. This information will be

posted on the board's website and summaries of the changes made to many of the code sections will be provided in the next issue of *The Script*.

The board will also send a notice out via subscriber alert providing general changes to licensees and advising them of resources to find all of the changes in law. Also notice to nonresident pharmacies advising them of the specific changes affecting their operations.

6. FOR INFORMATION: First Quarterly Report on the Committee's Goals for 2011/12

ATTACHMENT 7

Provided in **Attachment 7** is the first quarterly report on the Legislation and Regulation Committee's goals.

Attachment 1

Senate Bill No. 431

Passed the Senate September 9, 2011

Secretary of the Senate

Passed the Assembly September 9, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 4104, 4105, and 4112 of the Business and Professions Code, relating to pharmacies.

LEGISLATIVE COUNSEL'S DIGEST

SB 431, Emmerson. Pharmacies: regulation.

Existing law, the Pharmacy Law, creates the California State Board of Pharmacy and makes it responsible for administering and enforcing the provisions of that law, including the licensure of pharmacies, as defined, and nonresident pharmacies that ship, mail, or deliver controlled substances or dangerous drugs or devices, as defined, into this state. A knowing violation of the Pharmacy Law is a crime.

Existing law requires that each pharmacy establish procedures for addressing the theft, diversion, or self-use of dangerous drugs by a licensed individual employed by or with the pharmacy, and that every pharmacy report to the board within 30 days of the receipt or development of certain information affecting the ability of those individuals to practice the profession or occupation authorized by their license, as specified. Existing law requires an entity licensed by the board to retain records of the acquisition and disposition of dangerous drugs and devices in a specified manner. Existing federal law requires registrants distributing specified controlled substances to conduct an inventory of controlled substances every 2 years.

This bill would instead require a pharmacy to report and provide to the board, within 14 days of the receipt or development thereof, the information described above regarding the ability of licensed individuals employed by or with the pharmacy to practice the profession or occupation authorized by their license. The bill would require the report to include specified detailed information, including the date of the last controlled substances inventory, and would require the pharmacy to prepare and submit an audit relating to the report upon the request of the board. The bill would also require an entity licensed by the board to provide records to designated persons within 3 business days of the time of the request, unless that timeframe is extended by the board, as

specified. The bill would prohibit a pharmacist whose license was revoked by the board to perform pharmacy duties, as specified, for a nonresident pharmacy.

Because this bill would specify additional requirements under the Pharmacy Law, a violation of which is a crime, it would impose a state-mandated local program by creating additional crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 4104 of the Business and Professions Code is amended to read:

4104. (a) Every pharmacy shall have in place procedures for taking action to protect the public when a licensed individual employed by or with the pharmacy is discovered or known to be chemically, mentally, or physically impaired to the extent it affects his or her ability to practice the profession or occupation authorized by his or her license, or is discovered or known to have engaged in the theft, diversion, or self-use of dangerous drugs.

(b) Every pharmacy shall have written policies and procedures for addressing chemical, mental, or physical impairment, as well as theft, diversion, or self-use of dangerous drugs, among licensed individuals employed by or with the pharmacy.

(c) Every pharmacy shall report and provide to the board, within 14 days of the receipt or development thereof, the following information with regard to any licensed individual employed by or with the pharmacy:

(1) Any admission by a licensed individual of chemical, mental, or physical impairment affecting his or her ability to practice.

(2) Any admission by a licensed individual of theft, diversion, or self-use of dangerous drugs.

(3) Any video or documentary evidence demonstrating chemical, mental, or physical impairment of a licensed individual to the extent it affects his or her ability to practice.

(4) Any video or documentary evidence demonstrating theft, diversion, or self-use of dangerous drugs by a licensed individual.

(5) Any termination based on chemical, mental, or physical impairment of a licensed individual to the extent it affects his or her ability to practice.

(6) Any termination of a licensed individual based on theft, diversion, or self-use of dangerous drugs.

(d) The report required in subdivision (c) shall include sufficient detail to inform the board of the facts upon which the report is based, including an estimate of the type and quantity of all dangerous drugs involved, the timeframe over which the losses are suspected, and the date of the last controlled substances inventory. Upon request of the board, the pharmacy shall prepare and submit an audit involving the dangerous drugs suspected to be missing.

(e) Anyone making a report authorized or required by this section shall have immunity from any liability, civil or criminal, that might otherwise arise from the making of the report. Any participant shall have the same immunity with respect to participation in any administrative or judicial proceeding resulting from the report.

SEC. 2. Section 4105 of the Business and Professions Code is amended to read:

4105. (a) All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form.

(b) The licensee may remove the original records or documentation from the licensed premises on a temporary basis for license-related purposes. However, a duplicate set of those records or other documentation shall be retained on the licensed premises.

(c) The records required by this section shall be retained on the licensed premises for a period of three years from the date of making.

(d) Any records that are maintained electronically shall be maintained so that the pharmacist-in-charge, the pharmacist on duty if the pharmacist-in-charge is not on duty, or, in the case of a veterinary food-animal drug retailer or wholesaler, the designated representative on duty, shall, at all times during which the licensed

premises are open for business, be able to produce a hard copy and electronic copy of all records of acquisition or disposition or other drug or dispensing-related records maintained electronically.

(e) (1) Notwithstanding subdivisions (a), (b), and (c), the board, may upon written request, grant to a licensee a waiver of the requirements that the records described in subdivisions (a), (b), and (c) be kept on the licensed premises.

(2) A waiver granted pursuant to this subdivision shall not affect the board's authority under this section or any other provision of this chapter.

(f) When requested by an authorized officer of the law or by an authorized representative of the board, the owner, corporate officer, or manager of an entity licensed by the board shall provide the board with the requested records within three business days of the time the request was made. The entity may request in writing an extension of this timeframe for a period not to exceed 14 calendar days from the date the records were requested. A request for an extension of time is subject to the approval of the board. An extension shall be deemed approved if the board fails to deny the extension request within two business days of the time the extension request was made directly to the board.

SEC. 3. Section 4112 of the Business and Professions Code is amended to read:

4112. (a) Any pharmacy located outside this state that ships, mails, or delivers, in any manner, controlled substances, dangerous drugs, or dangerous devices into this state shall be considered a nonresident pharmacy.

(b) A person may not act as a nonresident pharmacy unless he or she has obtained a license from the board. The board may register a nonresident pharmacy that is organized as a limited liability company in the state in which it is licensed.

(c) A nonresident pharmacy shall disclose to the board the location, names, and titles of (1) its agent for service of process in this state, (2) all principal corporate officers, if any, (3) all general partners, if any, and (4) all pharmacists who are dispensing controlled substances, dangerous drugs, or dangerous devices to residents of this state. A report containing this information shall be made on an annual basis and within 30 days after any change of office, corporate officer, partner, or pharmacist.

(d) All nonresident pharmacies shall comply with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is licensed as well as with all requests for information made by the board pursuant to this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit, or registration to conduct the pharmacy in compliance with the laws of the state in which it is a resident. As a prerequisite to registering with the board, the nonresident pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which it is located.

(e) All nonresident pharmacies shall maintain records of controlled substances, dangerous drugs, or dangerous devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed.

(f) Any pharmacy subject to this section shall, during its regular hours of operation, but not less than six days per week, and for a minimum of 40 hours per week, provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free telephone number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this state.

(g) A nonresident pharmacy shall not permit a pharmacist whose license has been revoked by the board to manufacture, compound, furnish, sell, dispense, or initiate the prescription of a dangerous drug or dangerous device, or to provide any pharmacy-related service, to a person residing in California.

(h) The board shall adopt regulations that apply the same requirements or standards for oral consultation to a nonresident pharmacy that operates pursuant to this section and ships, mails, or delivers any controlled substances, dangerous drugs, or dangerous devices to residents of this state, as are applied to an in-state pharmacy that operates pursuant to Section 4037 when the pharmacy ships, mails, or delivers any controlled substances, dangerous drugs, or dangerous devices to residents of this state. The board shall not adopt any regulations that require face-to-face consultation for a prescription that is shipped, mailed, or delivered to the patient. The regulations adopted pursuant to this subdivision

shall not result in any unnecessary delay in patients receiving their medication.

(i) The registration fee shall be the fee specified in subdivision (a) of Section 4400.

(j) The registration requirements of this section shall apply only to a nonresident pharmacy that ships, mails, or delivers controlled substances, dangerous drugs, and dangerous devices into this state pursuant to a prescription.

(k) Nothing in this section shall be construed to authorize the dispensing of contact lenses by nonresident pharmacists except as provided by Section 4124.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2011

Governor

Senate Bill No. 943

CHAPTER 350

An act to amend Sections 1916, 1917, 1917.2, 1918, 1922, 1927, 1950, 1952, 1955, 1957, 1959, 1961, 1962, 1963, 1966.1, 2313, 2736.5, 2836.2, 2936, 3519, 3575, 4200, 4836.1, 4980.36, 4980.37, 4980.40.5, 4980.42, 4980.45, 4982.25, 4989.54, 4990.38, 4992.3, 4992.36, 4996.13, 4996.24, 4999.12, and 4999.90 of, to add Sections 1902.1, 4999.91, and 4999.455 to, and to repeal Section 1945 of, the Business and Professions Code, relating to healing arts.

[Approved by Governor September 26, 2011. Filed with
Secretary of State September 26, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 943, Committee on Business, Professions and Economic Development.
Healing arts.

Existing law provides for the licensure and regulation of various healing arts licensees by boards within the Department of Consumer Affairs.

(1) Existing law, the Dental Practice Act, provides for the licensure and regulation of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions by the Dental Hygiene Committee of California within the Dental Board of California.

Existing law requires applicants for licensure to provide fingerprint images for submission to governmental agencies, in order to, among other things, establish the identity of the applicant.

This bill would require applicants to submit electronic fingerprint images.

Existing law requires the committee to license as a registered dental hygienist, a registered dental hygienist in extended functions, or a registered dental hygienist in alternative practice a person who meets certain educational, training, and examination requirements.

This bill would additionally require these applicants to complete an application and pay required application fees.

Existing law, until January 1, 2012, requires the committee to license as a registered dental hygienist a 3rd- or 4th-year dental student who is in good standing at an accredited California dental school, who satisfactorily performs on a clinical examination and an examination in California law and ethics as prescribed by the committee, and who satisfactorily completes a national written dental hygiene examination approved by the committee.

This bill would extend those provisions until January 1, 2014.

Under existing law, a licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the committee, for conviction of a crime substantially related to the licensee's qualifications,

functions, or duties. Existing law authorizes the committee to order a license suspended or revoked or to decline to issue a license if certain procedural events occur.

This bill would additionally authorize the committee to reprimand a licensee or order a license placed on probation.

Under existing law, a licensee or health care facility that fails to comply with a specified request from the committee for a patient's dental hygiene records is subject to a \$250 per day civil penalty for each day that the records have not been produced, as specified.

This bill would additionally require licensees and health care facilities to comply with a request for a patient's dental records and would make them subject to a civil or administrative penalty or fine up to a maximum of \$250 per day for each day that the records have not been produced, as specified.

(2) Existing law, the Nursing Practice Act, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing.

Existing law requires applicants for licensure as a registered nurse to meet certain educational requirements, to have completed specified courses of instruction, and to not be subject to denial of licensure under specified circumstances. Existing law authorizes applicants who have served on active duty in the medical corps in the United States Armed Forces to submit a record of specified training to the board for evaluation in order to satisfy the courses of instruction requirement. Under existing law, if the applicant satisfies the other general licensure requirements and if the board determines that both education and experience establish competency to practice registered nursing, the applicant shall be granted a license upon passing a certain examination.

This bill would limit that board determination to be based on education only.

(3) Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician assistants by the Physician Assistant Committee. Existing law requires the committee to issue a license to a physician assistant applicant who, among other things, provides evidence of either successful completion of an approved program, as defined, or a resident course of professional instruction meeting certain requirements.

This bill would instead require applicants to provide evidence of successful completion of an approved program, as defined.

(4) Existing law provides for the registration and regulation of polysomnographic technologists by the Medical Board of California. Existing law requires the board to promulgate regulations relative to the qualifications for the registration of individuals as certified polysomnographic technologists. Existing law specifies that the qualifications for a certified polysomnographic technologist includes meeting certain educational requirements and the passage of a national certifying examination. Existing law authorizes, for a specified period, the examination requirement to be satisfied if the applicant submits proof that he or she has been practicing polysomnography for at least 5 years, as specified.

This bill would authorize, for a specified period, all of these qualifications to be satisfied if the applicant submits proof that he or she has been practicing polysomnography for at least 5 years, as specified.

(5) Existing law, the Veterinary Medicine Practice Act, until January 1, 2012, authorizes a registered veterinary technician and an unregistered assistant to administer a drug, including, but not limited to, a drug that is a controlled substance, except for the induction of anesthesia, under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of the veterinarian.

This bill would extend the operation of that provision to January 1, 2013.

(6) Under existing law, the Board of Behavioral Sciences is responsible for the licensure, registration, and regulation of, among others, marriage and family therapists, licensed clinical social workers, and licensed professional clinical counselors.

(A) Existing law, the Marriage and Family Therapist Act, provides for the licensure and regulation of marriage and family therapists and makes a violation of the act a crime. Existing law, with respect to marriage and family therapists and marriage and family therapist interns, requires an applicant to possess a doctoral or master's degree in any of various disciplines, including, but not limited to, marriage, family, and child counseling.

This bill would add couple and family therapy to that list of acceptable disciplines.

Existing law requires that degree to contain a specified number of units of instruction that includes practicum involving direct client contact of a specified number of hours of face-to-face experience counseling individuals, couples, families, or groups and authorizes a portion of those hours to be gained performing client centered advocacy, as defined.

This bill would revise and recast that requirement and would authorize that portion of hours to be gained performing either client centered advocacy, as defined, or face-to-face experience counseling individuals, couples, families, or groups.

Existing law authorizes a licensed professional in private practice meeting certain requirements to supervise or employ no more than a total of 2 individuals registered as either a marriage and family therapist intern or associate clinical social worker.

This bill would authorize such a licensed professional to supervise or employ no more than a total of 3 individuals and would add clinical counsel interns to that list. Because the bill would change the definition of a crime, it would thereby impose a state-mandated local program.

Under existing law, a marriage and family therapy corporation may employ no more than a total of 2 individuals registered as either a marriage and family therapist intern or associate clinical social worker for each employee. Existing law prohibits the corporation from employing more than 10 individuals registered as either a marriage and family therapist intern or associate clinical social worker.

This bill would authorize the corporation to employ no more than a total of 3 individuals and would add clinical counsel interns to that list. The bill would also authorize the corporation to employ no more than 15 registered interns and would include clinical counsel interns.

(B) The Clinical Social Worker Practice Act provides for the licensure and regulation of social workers and makes a violation of the act a crime. Under existing law, qualified members of other professional groups may do work of a psychosocial nature consistent with the standards and ethics of their respective professions.

This bill would specify that licensed professional clinical counselors may do such work.

Existing law authorizes a licensee in private practice meeting certain requirements to supervise or employ no more than a total of 2 individuals registered as either a marriage and family therapist intern or associate clinical social worker.

This bill would authorize that licensed professional to supervise or employ no more than a total of 3 individuals and would add clinical counsel interns to that list.

Under existing law, a licensed clinical social workers' corporation may employ no more than a total of 2 individuals registered as either a marriage and family therapist intern or associate clinical social worker for each employee who has satisfied certain requirements. Existing law prohibits the corporation from employing more than 10 individuals registered as either a marriage and family therapist intern or associate clinical social worker.

This bill would authorize the corporation to employ no more than a total of 3 individuals and would add clinical counsel interns to that list. The bill would also authorize the corporation to employ no more than 15 registered interns and would include clinical counsel interns.

By changing the definition of crimes, the bill would impose a state-mandated local program.

(C) Existing law, the Licensed Professional Clinical Counselor Act, provides for the licensure and regulation of professional clinical counselors and makes a violation of the act a crime. Existing law generally authorizes the board to take certain enforcement actions against licensees for a violation of the act.

This bill would authorize the board to deny any application, or to suspend or revoke any license or registration, for specified reasons.

The bill would also authorize a licensee in private practice meeting certain requirements to supervise or employ no more than a total of 3 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. The bill would authorize professional clinical counselor corporation to employ no more than a total of 3 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee. The bill would prohibit the corporation from employing more than 15 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate

clinical social worker. Because a violation of these requirements would constitute a crime, the bill would impose a state-mandated local program.

The bill would make other conforming and technical changes, including technical changes to the Psychology Licensing Law and the Pharmacy Law.

(7) This bill would incorporate changes to Sections 4980.36 and 4980.42 of the Business and Professions Code proposed by SB 363 and changes to Section 4999.90 of the Business and Professions Code proposed by SB 946, if these bills are also enacted and this bill is chaptered last.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1902.1 is added to the Business and Professions Code, to read:

1902.1. Protection of the public shall be the highest priority for the committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 2. Section 1916 of the Business and Professions Code is amended to read:

1916. (a) An applicant for licensure under this article shall furnish electronic fingerprint images for submission to state and federal criminal justice agencies, including, but not limited to, the Federal Bureau of Investigation, in order to establish the identity of the applicant and for the other purposes described in this section.

(b) The committee shall submit the fingerprint images to the Department of Justice for the purposes of obtaining criminal offender record information regarding state and federal level convictions and arrests, including arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(c) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate the response to the committee.

(d) The Department of Justice shall provide a response to the committee pursuant to subdivision (p) of Section 11105 of the Penal Code.

(e) The committee shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code.

(f) The information obtained as a result of the fingerprinting shall be used in accordance with Section 11105 of the Penal Code, and to determine

whether the applicant is subject to denial of licensure pursuant to Division 1.5 (commencing with Section 475) or Section 1943.

(g) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

SEC. 3. Section 1917 of the Business and Professions Code is amended to read:

1917. The committee shall grant initial licensure as a registered dental hygienist to a person who satisfies all of the following requirements:

(a) Completion of an educational program for registered dental hygienists, approved by the committee, accredited by the Commission on Dental Accreditation, and conducted by a degree-granting, postsecondary institution.

(b) Satisfactory performance on the state clinical examination, or satisfactory completion of the dental hygiene examination given by the Western Regional Examining Board or any other clinical dental hygiene examination approved by the committee.

(c) Satisfactory completion of the National Dental Hygiene Board examination.

(d) Satisfactory completion of the examination in California law and ethics as prescribed by the committee.

(e) Submission of a completed application form and all fees required by the committee.

SEC. 4. Section 1917.2 of the Business and Professions Code is amended to read:

1917.2. (a) The committee shall license as a registered dental hygienist a third- or fourth-year dental student who is in good standing at an accredited California dental school and who satisfies the following requirements:

(1) Satisfactorily performs on a clinical examination and an examination in California law and ethics as prescribed by the committee.

(2) Satisfactorily completes a national written dental hygiene examination approved by the committee.

(b) A dental student who is granted a registered dental hygienist license pursuant to this section may only practice in a dental practice that serves patients who are insured under Denti-Cal, the Healthy Families Program, or other government programs, or a dental practice that has a sliding scale fee system based on income.

(c) Upon receipt of a license to practice dentistry pursuant to Section 1634, a registered dental hygienist license issued pursuant to this subdivision is automatically revoked.

(d) The dental hygienist license is granted for two years upon passage of the dental hygiene examination, without the ability for renewal.

(e) Notwithstanding subdivision (d), if a dental student fails to remain in good standing at an accredited California dental school, or fails to graduate from the dental program, a registered dental hygienist license issued pursuant to this section shall be revoked. The student shall be responsible for submitting appropriate verifying documentation to the committee.

(f) The provisions of this section shall be reviewed pursuant to Division 1.2 (commencing with Section 473). However, the review shall be limited to the fiscal feasibility and impact on the committee.

(g) This section shall become inoperative as of January 1, 2014.

SEC. 5. Section 1918 of the Business and Professions Code is amended to read:

1918. The committee shall license as a registered dental hygienist in extended functions a person who meets all of the following requirements:

(a) Holds a current license as a registered dental hygienist in California.

(b) Completes clinical training approved by the committee in a facility affiliated with a dental school under the direct supervision of the dental school faculty.

(c) Performs satisfactorily on an examination required by the committee.

(d) Completes an application form and pays all application fees required by the committee.

SEC. 6. Section 1922 of the Business and Professions Code is amended to read:

1922. The committee shall license as a registered dental hygienist in alternative practice a person who demonstrates satisfactory performance on an examination in California law and ethics required by the committee and who completes an application form and pays all application fees required by the committee and meets either of the following requirements:

(a) Holds a current California license as a registered dental hygienist and meets the following requirements:

(1) Has been engaged in the practice of dental hygiene, as defined in Section 1908, as a registered dental hygienist in any setting, including, but not limited to, educational settings and public health settings, for a minimum of 2,000 hours during the immediately preceding 36 months.

(2) Has successfully completed a bachelor's degree or its equivalent from a college or institution of higher education that is accredited by a national or regional accrediting agency recognized by the United States Department of Education, and a minimum of 150 hours of additional educational requirements, as prescribed by the committee by regulation, that are consistent with good dental and dental hygiene practice, including, but not necessarily limited to, dental hygiene technique and theory including gerontology and medical emergencies, and business administration and practice management.

(b) Has received a letter of acceptance into the employment utilization phase of the Health Manpower Pilot Project No. 155 established by the Office of Statewide Health Planning and Development pursuant to Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 of the Health and Safety Code.

SEC. 7. Section 1927 of the Business and Professions Code is amended to read:

1927. A registered dental hygienist in alternative practice shall not do any of the following:

(a) Infer, purport, advertise, or imply that he or she is in any way able to provide dental services or make any type of dental diagnosis beyond evaluating a patient's dental hygiene status, providing a dental hygiene treatment plan, and providing the associated dental hygiene services.

(b) Hire a registered dental hygienist to provide direct patient services other than a registered dental hygienist in alternative practice.

SEC. 8. Section 1945 of the Business and Professions Code is repealed.

SEC. 9. Section 1950 of the Business and Professions Code is amended to read:

1950. (a) A licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the committee, for conviction of a crime substantially related to the licensee's qualifications, functions, or duties. The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction occurred shall be conclusive evidence of conviction.

(b) The committee shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the licensee's qualifications, functions, or duties is deemed to be a conviction within the meaning of this section.

(c) The committee may reprimand a licensee or order a license suspended or revoked, or placed on probation or may decline to issue a license, when any of the following occur:

(1) The time for appeal has elapsed.

(2) The judgment of conviction has been affirmed on appeal.

(3) An order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 10. Section 1952 of the Business and Professions Code is amended to read:

1952. It is unprofessional conduct for a person licensed under this article to do any of the following:

(a) Obtain or possess in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist, a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(b) Use a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or a dangerous drug as defined in Section 4022, or alcoholic beverages or other intoxicating substances, to an extent or in a manner dangerous or injurious to himself or herself, to any person, or the public to the extent that the use impairs the licensee's ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a charge of violating any federal statute or rules, or any statute or rule of this state, regulating controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug, as defined in Section 4022, or be convicted of more than one misdemeanor, or any felony, involving the use or consumption of alcohol or drugs, if the conviction is substantially related to the practice authorized by his or her license.

(1) The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of a violation of this section. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(2) The committee may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 11. Section 1955 of the Business and Professions Code is amended to read:

1955. (a) (1) A licensee who fails or refuses to comply with a request for a patient's dental or dental hygiene records that is accompanied by that patient's written authorization for release of the records to the committee, within 15 days of receiving the request and authorization, shall pay to the committee a civil or administrative penalty or fine up to a maximum of two hundred fifty dollars (\$250) per day for each day that the documents have not been produced after the 15th day, up to a maximum of five thousand dollars (\$5,000) unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the dental or dental hygiene records of a patient that is accompanied by that patient's written authorization for release of records to the committee together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's dental hygiene records to the committee within 30 days of receiving this request, authorization, and notice shall subject the health care facility to a civil or administrative penalty or fine, payable to the committee, of up to a maximum of two hundred fifty dollars (\$250) per day for each day that the documents have not been produced after the 30th day, up to a maximum of five thousand dollars (\$5,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the committee in obtaining the patient's authorization. The committee shall pay the reasonable cost of copying the dental hygiene records.

(b) (1) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee shall pay to the committee a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the committee shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee is guilty of a misdemeanor punishable by a fine payable to the committee not to exceed five thousand dollars (\$5,000). The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the committee shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of patient records to the committee, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the committee a civil penalty of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced, up to ten thousand dollars (\$10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the committee against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the committee is guilty of a misdemeanor punishable by a fine payable to the committee not to exceed five thousand dollars (\$5,000). Any statute of limitations applicable to the filing of an accusation by the committee against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) and shall be reported to the State Department of Public Health and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or permit.

(d) A failure or refusal to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee

constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

(e) Imposition of the civil or administrative penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

(f) For the purposes of this section, a “health care facility” means a clinic or health care facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

SEC. 12. Section 1957 of the Business and Professions Code is amended to read:

1957. (a) A person whose license has been revoked or suspended, who has been placed on probation, or whose license was surrendered pursuant to a stipulated settlement as a condition to avoid a disciplinary administrative hearing, may petition the committee for reinstatement or modification of the penalty, including modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:

(1) At least three years for reinstatement of a license revoked for unprofessional conduct or surrendered pursuant to a stipulated settlement as a condition to avoid an administrative disciplinary hearing.

(2) At least two years for early termination, or modification of a condition, of a probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination, or modification of a condition, of a probation of less than three years.

(b) The petition shall state any fact required by the committee.

(c) The petition may be heard by the committee, or the committee may assign the petition to an administrative law judge designated in Section 11371 of the Government Code.

(d) In considering reinstatement or modification or penalty, the committee or the administrative law judge hearing the petition may consider the following:

(1) All activities of the petitioner since the disciplinary action was taken.

(2) The offense for which the petitioner was disciplined.

(3) The petitioner’s activities during the time the license or permit was in good standing.

(4) The petitioner’s rehabilitative efforts, general reputation for truth, and professional ability.

(e) The hearing may be continued from time to time as the committee or the administrative law judge as designated in Section 11371 of the Government Code finds necessary.

(f) The committee or the administrative law judge may impose necessary terms and conditions on the licensee in reinstating a license or permit or modifying a penalty.

(g) A petition shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole.

(h) A petition shall not be considered while there is an accusation or petition to revoke probation pending against the person.

(i) The committee may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section. Nothing in this section shall be deemed to alter Sections 822 and 823.

SEC. 13. Section 1959 of the Business and Professions Code is amended to read:

1959. A person who holds a valid, unrevoked, and unsuspended license as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions under this article may append the letters “R.D.H.,” “R.D.H.A.P.,” or “R.D.H.E.F.,” respectively, to his or her name.

SEC. 14. Section 1961 of the Business and Professions Code is amended to read:

1961. A person who willfully, under circumstances that cause risk of bodily harm, serious physical or mental illness, or death, practices, attempts to practice, advertises, or holds himself or herself out as practicing dental hygiene without having at the time of so doing a valid, unrevoked, and unsuspended license as provided in this article, is guilty of a crime, punishable by imprisonment in a county jail for up to one year. The remedy provided in this section shall not preclude any other remedy provided by law.

SEC. 15. Section 1962 of the Business and Professions Code is amended to read:

1962. (a) An association, partnership, corporation, or group of three or more registered dental hygienists in alternative practice engaging in practice under a name that would otherwise be in violation of Section 1960 may practice under that name if the association, partnership, corporation, or group holds an unexpired, unsuspended, and unrevoked permit issued by the committee under this section.

(b) An individual registered dental hygienist in alternative practice or a pair of registered dental hygienists in alternative practice who practice dental hygiene under a name that would otherwise violate Section 1960 may practice under that name if the licensees hold a valid permit issued by the committee under this section. The committee shall issue a written permit authorizing the holder to use a name specified in the permit in connection with the holder’s practice if the committee finds all of the following:

(1) The applicant or applicants are duly licensed registered dental hygienists in alternative practice.

(2) The place where the applicant or applicants practice is owned or leased by the applicant or applicants, and the practice conducted at the place is wholly owned and entirely controlled by the applicant or applicants and is an approved area or practice setting pursuant to Section 1926.

(3) The name under which the applicant or applicants propose to operate contains at least one of the following designations: “dental hygiene group,” “dental hygiene practice,” or “dental hygiene office,” contains the family name of one or more of the past, present, or prospective associates, partners, shareholders, or members of the group, and is in conformity with Section 651 and not in violation of subdivisions (i) and (l) of Section 1950.5.

(4) All licensed persons practicing at the location designated in the application hold valid licenses and no charges of unprofessional conduct are pending against any person practicing at that location.

(c) A permit issued under this section shall expire and become invalid unless renewed in the manner provided for in this article for the renewal of permits issued under this article.

(d) A permit issued under this section may be revoked or suspended if the committee finds that any requirement for original issuance of a permit is no longer being fulfilled by the permitholder. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act.

(e) If charges of unprofessional conduct are filed against the holder of a permit issued under this section, or a member of an association, partnership, group, or corporation to whom a permit has been issued under this section, proceedings shall not be commenced for revocation or suspension of the permit until a final determination of the charges of unprofessional conduct, unless the charges have resulted in revocation or suspension of a license.

SEC. 16. Section 1963 of the Business and Professions Code is amended to read:

1963. The committee may file a complaint for violation of any part of this article with any court of competent jurisdiction and may, by its officers, counsel and agents, assist in presenting the law or facts at the trial. The district attorney of each county in this state shall prosecute all violations of this article in their respective counties in which the violations occur.

SEC. 17. Section 1966.1 of the Business and Professions Code is amended to read:

1966.1. (a) The committee shall establish criteria for the acceptance, denial, or termination of licensees in a diversion program. Unless ordered by the committee as a condition of a licensee’s disciplinary probation, only those licensees who have voluntarily requested diversion treatment and supervision by a diversion evaluation committee shall participate in a diversion program.

(b) A licensee who is not the subject of a current investigation may self-refer to the diversion program on a confidential basis, except as provided in subdivision (f).

(c) A licensee under current investigation by the committee may also request entry into a diversion program by contacting the committee. The committee may refer the licensee requesting participation in the program to a diversion evaluation committee for evaluation of eligibility. Prior to authorizing a licensee to enter into the diversion program, the committee may require the licensee, while under current investigation for any violations of this article or other violations, to execute a statement of understanding

that states that the licensee understands that his or her violations of this article or other statutes, that would otherwise be the basis for discipline, may still be investigated and the subject of disciplinary action.

(d) If the reasons for a current investigation of a licensee are based primarily on the self-administration of any controlled substance or dangerous drugs or alcohol under Section 1951, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drugs for self-administration that does not involve actual, direct harm to the public, the committee shall close the investigation without further action if the licensee is accepted into the committee's diversion program and successfully completes the requirements of the program. If the licensee withdraws or is terminated from the program by a diversion evaluation committee, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the committee.

(e) Neither acceptance nor participation in the diversion program shall preclude the committee from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any licensee for any unprofessional conduct committed before, during, or after participation in the diversion program.

(f) All licensees shall sign an agreement of understanding that the withdrawal or termination from the diversion program at a time when a diversion evaluation committee determines the licensee presents a threat to the public's health and safety shall result in the utilization by the committee of diversion treatment records in disciplinary or criminal proceedings.

(g) Any licensee terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the committee for acts committed before, during, and after participation in the diversion program. A licensee who has been under investigation by the committee and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the committee.

SEC. 18. Section 2313 of the Business and Professions Code is amended to read:

2313. The board shall report annually to the Legislature, no later than October 1 of each year, the following information:

(a) The total number of temporary restraining orders or interim suspension orders sought by the board to enjoin licensees pursuant to Sections 125.7, 125.8 and 2311, the circumstances in each case that prompted the board to seek that injunctive relief, and whether a restraining order or interim suspension order was actually issued.

(b) The total number and types of actions for unprofessional conduct taken by the board against licensees, the number and types of actions taken against licensees for unprofessional conduct related to prescribing drugs, narcotics, or other controlled substances, including those related to the undertreatment or undermedication of pain.

(c) Information relative to the performance of the board, including the following: number of consumer calls received; number of consumer calls

or letters designated as discipline-related complaints; number of complaint forms received; number of Section 805 and Section 805.01 reports by type; number of Section 801.01 and Section 803 reports; coroner reports received; number of convictions reported to the board; number of criminal filings reported to the division; number of complaints and referrals closed, referred out, or resolved without discipline, respectively, prior to accusation; number of accusations filed and final disposition of accusations through the board and court review, respectively; final physician discipline by category; number of citations issued with fines and without fines, and number of public reprimands issued; number of cases in process more than six months from receipt by the board of information concerning the relevant acts to the filing of an accusation; average and median time in processing complaints from original receipt of complaint by the board for all cases at each stage of discipline and court review, respectively; number of persons in diversion, and number successfully completing diversion programs and failing to do so, respectively; probation violation reports and probation revocation filings and dispositions; number of petitions for reinstatement and their dispositions; and caseloads of investigators for original cases and for probation cases, respectively.

“Action,” for purposes of this section, includes proceedings brought by, or on behalf of, the board against licensees for unprofessional conduct that have not been finally adjudicated, as well as disciplinary actions taken against licensees.

(d) The total number of reports received pursuant to Section 805 and Section 805.01 by the type of peer review body reporting and, where applicable, the type of health care facility involved and the total number and type of administrative or disciplinary actions taken by the board with respect to the reports.

(e) The number of malpractice settlements in excess of thirty thousand dollars (\$30,000) reported pursuant to Section 801.01. This information shall be grouped by specialty practice and shall include the total number of physicians and surgeons practicing in each specialty. For the purpose of this subdivision, “specialty” includes all specialties and subspecialties considered in determining the risk categories described in Section 803.1.

SEC. 19. Section 2736.5 of the Business and Professions Code is amended to read:

2736.5. (a) Any person who has served on active duty in the medical corps of any of the Armed Forces of the United States and who has successfully completed the course of instruction required to qualify him or her for rating as a medical service technician—independent duty, or other equivalent rating in his particular branch of the Armed Forces, and whose service in the Armed Forces has been under honorable conditions, may submit the record of such training to the board for evaluation.

(b) If such person meets the qualifications of paragraphs (1) and (3) of subdivision (a) of Section 2736, and if the board determines that his or her education would give reasonable assurance of competence to practice as a

registered nurse in this state, he or she shall be granted a license upon passing the standard examination for such licensure.

(c) The board shall, by regulation, establish criteria for evaluating the education of applicants under this section.

(d) The board shall maintain records of the following categories of applicants under this section:

(1) Applicants who are rejected for examination, and the areas of such applicants' preparation which are the causes of rejection.

(2) Applicants who are qualified by their military education alone to take the examination, and the results of their examinations.

(3) Applicants who are qualified to take the examination by their military education plus supplementary education, and the results of their examinations.

(e) The board shall attempt to contact by mail or other means individuals meeting the requirements of subdivision (a) who have been or will be discharged or separated from the Armed Forces of the United States, in order to inform them of the application procedure provided by this section. The board may enter into an agreement with the federal government in order to secure the names and addresses of such individuals.

SEC. 20. Section 2836.2 of the Business and Professions Code is amended to read:

2836.2. Furnishing or ordering of drugs or devices by nurse practitioners is defined to mean the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure. All nurse practitioners who are authorized pursuant to Section 2836.1 to furnish or issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration.

SEC. 21. Section 2936 of the Business and Professions Code is amended to read:

2936. The board shall adopt a program of consumer and professional education in matters relevant to the ethical practice of psychology. The board shall establish as its standards of ethical conduct relating to the practice of psychology, the "Ethical Principles and Code of Conduct" published by the American Psychological Association (APA). Those standards shall be applied by the board as the accepted standard of care in all licensing examination development and in all board enforcement policies and disciplinary case evaluations.

To facilitate consumers in receiving appropriate psychological services, all licensees and registrants shall be required to post, in a conspicuous location in their principal psychological business office, a notice which reads as follows:

"NOTICE TO CONSUMERS: The Department of Consumer Affairs' Board of Psychology receives and responds to questions and complaints regarding the practice of psychology. If you have questions or complaints, you may contact the board on the Internet at www.psychboard.ca.gov, by calling 1-866-503-3221, or by writing to the following address:

Board of Psychology
2005 Evergreen Street, Suite 1400
Sacramento, California 95815-3894”

SEC. 22. Section 3519 of the Business and Professions Code is amended to read:

3519. The committee shall issue under the name of the Medical Board of California a license to all physician assistant applicants who meet all of the following requirements:

- (a) Provide evidence of successful completion of an approved program.
- (b) Pass any examination required under Section 3517.
- (c) Not be subject to denial of licensure under Division 1.5 (commencing with Section 475) or Section 3527.
- (d) Pay all fees required under Section 3521.1.

SEC. 23. Section 3575 of the Business and Professions Code is amended to read:

3575. (a) For the purposes of this chapter, the following definitions shall apply:

- (1) “Board” means the Medical Board of California.
 - (2) “Polysomnography” means the treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders. Polysomnography shall include, but not be limited to, the process of analysis, monitoring, and recording of physiologic data during sleep and wakefulness to assist in the treatment of disorders, syndromes, and dysfunctions that are sleep-related, manifest during sleep, or disrupt normal sleep activities. Polysomnography shall also include, but not be limited to, the therapeutic and diagnostic use of oxygen, the use of positive airway pressure including continuous positive airway pressure (CPAP) and bilevel modalities, adaptive servo-ventilation, and maintenance of nasal and oral airways that do not extend into the trachea.
 - (3) “Supervision” means that the supervising physician and surgeon shall remain available, either in person or through telephonic or electronic means, at the time that the polysomnographic services are provided.
- (b) (1) Within one year after the effective date of this chapter, the board shall promulgate regulations relative to the qualifications for the registration of individuals as certified polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees. The qualifications for a certified polysomnographic technologist shall include all of the following:
- (A) He or she shall have valid, current credentials as a polysomnographic technologist issued by a national accrediting agency approved by the board.
 - (B) He or she shall have graduated from a polysomnographic educational program that has been approved by the board.
 - (C) He or she shall have passed a national certifying examination that has been approved by the board.
- (2) An applicant for registration as a certified polysomnographic technologist may satisfy the qualifications described in paragraph (1) by

submitting proof to the board that he or she has been practicing polysomnography for at least five years in a manner that is acceptable to the board. However, beginning three years after the effective date of this chapter, all individuals seeking to obtain certification as a polysomnographic technologist shall have passed a national certifying examination that has been approved by the board.

(c) In accordance with Section 144, any person seeking registration from the board as a certified polysomnographic technologist, a polysomnographic technician, or a polysomnographic trainee shall be subject to a state and federal level criminal offender record information search conducted through the Department of Justice as specified in paragraphs (1) to (5), inclusive, of this subdivision.

(1) The board shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all polysomnographic technologist, technician, or trainee certification candidates for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this subdivision. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the board.

(3) The Department of Justice shall provide state and federal responses to the board pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The board shall request from the Department of Justice subsequent arrest notification service, pursuant to Section 11105.2 of the Penal Code, for persons described in this subdivision.

(5) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this subdivision. The individual seeking registration shall be responsible for this cost.

(d) An individual may use the title “certified polysomnographic technologist” and may engage in the practice of polysomnography only under the following circumstances:

(1) He or she is registered with the board and has successfully undergone a state and federal level criminal offender record information search pursuant to subdivision (c).

(2) He or she works under the supervision and direction of a licensed physician and surgeon.

(3) He or she meets the requirements of this chapter.

(e) Within one year after the effective date of this chapter, the board shall adopt regulations that establish the means and circumstances in which a licensed physician and surgeon may employ polysomnographic technicians and polysomnographic trainees. The board may also adopt regulations

specifying the scope of services that may be provided by a polysomnographic technician or polysomnographic trainee. Any regulation adopted pursuant to this section may specify the level of supervision that polysomnographic technicians and trainees are required to have when working under the supervision of a certified polysomnographic technologist or licensed health care professional.

(f) This section shall not apply to California licensed allied health professionals, including, but not limited to, respiratory care practitioners, working within the scope of practice of their license.

(g) Nothing in this chapter shall be interpreted to authorize a polysomnographic technologist, technician, or trainee to treat, manage, control, educate, or care for patients other than those with sleep disorders or to provide diagnostic testing for patients other than those with suspected sleep disorders.

SEC. 24. Section 4200 of the Business and Professions Code is amended to read:

4200. (a) The board may license as a pharmacist an applicant who meets all the following requirements:

(1) Is at least 18 years of age.

(2) (A) Has graduated from a college of pharmacy or department of pharmacy of a university recognized by the board; or

(B) If the applicant graduated from a foreign pharmacy school, the foreign-educated applicant has been certified by the Foreign Pharmacy Graduate Examination Committee.

(3) Has completed at least 150 semester units of collegiate study in the United States, or the equivalent thereof in a foreign country. No less than 90 of those semester units shall have been completed while in resident attendance at a school or college of pharmacy.

(4) Has earned at least a baccalaureate degree in a course of study devoted to the practice of pharmacy.

(5) Has completed 1,500 hours of pharmacy practice experience or the equivalent in accordance with Section 4209.

(6) Has passed the North American Pharmacist Licensure Examination and the California Practice Standards and Jurisprudence Examination for Pharmacists on or after January 1, 2004.

(b) Proof of the qualifications of an applicant for licensure as a pharmacist shall be made to the satisfaction of the board and shall be substantiated by affidavits or other evidence as may be required by the board.

(c) Each person, upon application for licensure as a pharmacist under this chapter, shall pay to the executive officer of the board the fees provided by this chapter. The fees shall be compensation to the board for investigation or examination of the applicant.

SEC. 25. Section 4836.1 of the Business and Professions Code is amended to read:

4836.1. (a) Notwithstanding any other provision of law, a registered veterinary technician or an unregistered assistant may administer a drug, including, but not limited to, a drug that is a controlled substance, under the

direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian. However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the board.

(b) For purposes of this section, the following definitions apply:

(1) “Controlled substance” has the same meaning as that term is defined in Section 11007 of the Health and Safety Code.

(2) “Direct supervision” has the same meaning as that term is defined in subdivision (e) of Section 2034 of Title 16 of the California Code of Regulations.

(3) “Drug” has the same meaning as that term is defined in Section 11014 of the Health and Safety Code.

(4) “Indirect supervision” has the same meaning as that term is defined in subdivision (f) of Section 2034 of Title 16 of the California Code of Regulations.

(c) This section shall remain in effect until January 1, 2013, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2013, deletes or extends that date.

SEC. 26. Section 4980.36 of the Business and Professions Code is amended to read:

4980.36. (a) This section shall apply to the following:

(1) Applicants for licensure or registration who begin graduate study before August 1, 2012, and do not complete that study on or before December 31, 2018.

(2) Applicants for licensure or registration who begin graduate study before August 1, 2012, and who graduate from a degree program that meets the requirements of this section.

(3) Applicants for licensure or registration who begin graduate study on or after August 1, 2012.

(b) To qualify for a license or registration, applicants shall possess a doctor’s or master’s degree meeting the requirements of this section in marriage, family, and child counseling, marriage and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university approved by the Bureau for Private Postsecondary Education or accredited by either the Commission on the Accreditation of Marriage and Family Therapy Education or a regional accrediting agency recognized by the United States Department of Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval.

(c) A doctor’s or master’s degree program that qualifies for licensure or registration shall do the following:

(1) Integrate all of the following throughout its curriculum:

(A) Marriage and family therapy principles.

(B) The principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, among others.

(C) An understanding of various cultures and the social and psychological implications of socioeconomic position, and an understanding of how poverty and social stress impact an individual's mental health and recovery.

(2) Allow for innovation and individuality in the education of marriage and family therapists.

(3) Encourage students to develop the personal qualities that are intimately related to effective practice, including, but not limited to, integrity, sensitivity, flexibility, insight, compassion, and personal presence.

(4) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.

(5) Provide students with the opportunity to meet with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(d) The degree described in subdivision (b) shall contain no less than 60 semester or 90 quarter units of instruction that includes, but is not limited to, the following requirements:

(1) Both of the following:

(A) No less than 12 semester or 18 quarter units of coursework in theories, principles, and methods of a variety of psychotherapeutic orientations directly related to marriage and family therapy and marital and family systems approaches to treatment and how these theories can be applied therapeutically with individuals, couples, families, adults, including elder adults, children, adolescents, and groups to improve, restore, or maintain healthy relationships.

(B) Practicum that involves direct client contact, as follows:

(i) A minimum of six semester or nine quarter units of practicum in a supervised clinical placement that provides supervised fieldwork experience.

(ii) A minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

(iii) A student must be enrolled in a practicum course while counseling clients.

(iv) The practicum shall provide training in all of the following areas:

(I) Applied use of theory and psychotherapeutic techniques.

(II) Assessment, diagnosis, and prognosis.

(III) Treatment of individuals and premarital, couple, family, and child relationships, including trauma and abuse, dysfunctions, healthy functioning, health promotion, illness prevention, and working with families.

(IV) Professional writing, including documentation of services, treatment plans, and progress notes.

(V) How to connect people with resources that deliver the quality of services and support needed in the community.

(v) Educational institutions are encouraged to design the practicum required by this subparagraph to include marriage and family therapy experience in low-income and multicultural mental health settings.

(vi) In addition to the 150 hours required in clause (ii), 75 hours of either of the following:

(I) Client-centered advocacy, as defined in Section 4980.03.

(II) Face-to-face experience counseling individuals, couples, families, or groups.

(2) Instruction in all of the following:

(A) Diagnosis, assessment, prognosis, and treatment of mental disorders, including severe mental disorders, evidence-based practices, psychological testing, psychopharmacology, and promising mental health practices that are evaluated in peer reviewed literature.

(B) Developmental issues from infancy to old age, including instruction in all of the following areas:

(i) The effects of developmental issues on individuals, couples, and family relationships.

(ii) The psychological, psychotherapeutic, and health implications of developmental issues and their effects.

(iii) Aging and its biological, social, cognitive, and psychological aspects.

(iv) A variety of cultural understandings of human development.

(v) The understanding of human behavior within the social context of socioeconomic status and other contextual issues affecting social position.

(vi) The understanding of human behavior within the social context of a representative variety of the cultures found within California.

(vii) The understanding of the impact that personal and social insecurity, social stress, low educational levels, inadequate housing, and malnutrition have on human development.

(C) The broad range of matters and life events that may arise within marriage and family relationships and within a variety of California cultures, including instruction in all of the following:

(i) Child and adult abuse assessment and reporting.

(ii) Spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(iii) Cultural factors relevant to abuse of partners and family members.

(iv) Childbirth, child rearing, parenting, and stepparenting.

(v) Marriage, divorce, and blended families.

(vi) Long-term care.

(vii) End of life and grief.

(viii) Poverty and deprivation.

(ix) Financial and social stress.

(x) Effects of trauma.

(xi) The psychological, psychotherapeutic, community, and health implications of the matters and life events described in clauses (i) to (x), inclusive.

(D) Cultural competency and sensitivity, including a familiarity with the racial, cultural, linguistic, and ethnic backgrounds of persons living in California.

(E) Multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability, and their incorporation into the psychotherapeutic process.

(F) The effects of socioeconomic status on treatment and available resources.

(G) Resilience, including the personal and community qualities that enable persons to cope with adversity, trauma, tragedy, threats, or other stresses.

(H) Human sexuality, including the study of physiological, psychological, and social cultural variables associated with sexual behavior and gender identity, and the assessment and treatment of psychosexual dysfunction.

(I) Substance use disorders, co-occurring disorders, and addiction, including, but not limited to, instruction in all of the following:

(i) The definition of substance use disorders, co-occurring disorders, and addiction. For purposes of this subparagraph, “co-occurring disorders” means a mental illness and substance abuse diagnosis occurring simultaneously in an individual.

(ii) Medical aspects of substance use disorders and co-occurring disorders.

(iii) The effects of psychoactive drug use.

(iv) Current theories of the etiology of substance abuse and addiction.

(v) The role of persons and systems that support or compound substance abuse and addiction.

(vi) Major approaches to identification, evaluation, and treatment of substance use disorders, co-occurring disorders, and addiction, including, but not limited to, best practices.

(vii) Legal aspects of substance abuse.

(viii) Populations at risk with regard to substance use disorders and co-occurring disorders.

(ix) Community resources offering screening, assessment, treatment, and followup for the affected person and family.

(x) Recognition of substance use disorders, co-occurring disorders, and addiction, and appropriate referral.

(xi) The prevention of substance use disorders and addiction.

(J) California law and professional ethics for marriage and family therapists, including instruction in all of the following areas of study:

(i) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the scope of practice of marriage and family therapy.

(ii) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including, but not limited to, family law.

(iii) The current legal patterns and trends in the mental health professions.

(iv) The psychotherapist-patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.

(v) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

(vi) Differences in legal and ethical standards for different types of work settings.

(vii) Licensing law and licensing process.

(e) The degree described in subdivision (b) shall, in addition to meeting the requirements of subdivision (d), include instruction in case management, systems of care for the severely mentally ill, public and private services and supports available for the severely mentally ill, community resources for persons with mental illness and for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill, and collaborative treatment. This instruction may be provided either in credit level coursework or through extension programs offered by the degree-granting institution.

(f) The changes made to law by this section are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice, and are not intended to expand or restrict the scope of practice for marriage and family therapists.

SEC. 26.5. Section 4980.36 of the Business and Professions Code is amended to read:

4980.36. (a) This section shall apply to the following:

(1) Applicants for licensure or registration who begin graduate study before August 1, 2012, and do not complete that study on or before December 31, 2018.

(2) Applicants for licensure or registration who begin graduate study before August 1, 2012, and who graduate from a degree program that meets the requirements of this section.

(3) Applicants for licensure or registration who begin graduate study on or after August 1, 2012.

(b) To qualify for a license or registration, applicants shall possess a doctor's or master's degree meeting the requirements of this section in marriage, family, and child counseling, marriage and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university approved by the Bureau for Private Postsecondary Education or accredited by either the Commission on the Accreditation of Marriage and Family Therapy Education or a regional accrediting agency recognized by the United States Department of Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval.

(c) A doctor's or master's degree program that qualifies for licensure or registration shall do the following:

- (1) Integrate all of the following throughout its curriculum:
 - (A) Marriage and family therapy principles.
 - (B) The principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, among others.
 - (C) An understanding of various cultures and the social and psychological implications of socioeconomic position, and an understanding of how poverty and social stress impact an individual's mental health and recovery.
- (2) Allow for innovation and individuality in the education of marriage and family therapists.
- (3) Encourage students to develop the personal qualities that are intimately related to effective practice, including, but not limited to, integrity, sensitivity, flexibility, insight, compassion, and personal presence.
- (4) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.
- (5) Provide students with the opportunity to meet with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.
- (d) The degree described in subdivision (b) shall contain no less than 60 semester or 90 quarter units of instruction that includes, but is not limited to, the following requirements:
 - (1) Both of the following:
 - (A) No less than 12 semester or 18 quarter units of coursework in theories, principles, and methods of a variety of psychotherapeutic orientations directly related to marriage and family therapy and marital and family systems approaches to treatment and how these theories can be applied therapeutically with individuals, couples, families, adults, including elder adults, children, adolescents, and groups to improve, restore, or maintain healthy relationships.
 - (B) Practicum that involves direct client contact, as follows:
 - (i) A minimum of six semester or nine quarter units of practicum in a supervised clinical placement that provides supervised fieldwork experience.
 - (ii) A minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.
 - (iii) A student must be enrolled in a practicum course while counseling clients, except as specified in subdivision (c) of Section 4980.42.
 - (iv) The practicum shall provide training in all of the following areas:
 - (I) Applied use of theory and psychotherapeutic techniques.
 - (II) Assessment, diagnosis, and prognosis.
 - (III) Treatment of individuals and premarital, couple, family, and child relationships, including trauma and abuse, dysfunctions, healthy functioning, health promotion, illness prevention, and working with families.
 - (IV) Professional writing, including documentation of services, treatment plans, and progress notes.
 - (V) How to connect people with resources that deliver the quality of services and support needed in the community.

(v) Educational institutions are encouraged to design the practicum required by this subparagraph to include marriage and family therapy experience in low-income and multicultural mental health settings.

(vi) In addition to the 150 hours required in clause (ii), 75 hours of either of the following:

(I) Client-centered advocacy, as defined in Section 4980.03.

(II) Face-to-face experience counseling individuals, couples, families, or groups.

(2) Instruction in all of the following:

(A) Diagnosis, assessment, prognosis, and treatment of mental disorders, including severe mental disorders, evidence-based practices, psychological testing, psychopharmacology, and promising mental health practices that are evaluated in peer reviewed literature.

(B) Developmental issues from infancy to old age, including instruction in all of the following areas:

(i) The effects of developmental issues on individuals, couples, and family relationships.

(ii) The psychological, psychotherapeutic, and health implications of developmental issues and their effects.

(iii) Aging and its biological, social, cognitive, and psychological aspects.

(iv) A variety of cultural understandings of human development.

(v) The understanding of human behavior within the social context of socioeconomic status and other contextual issues affecting social position.

(vi) The understanding of human behavior within the social context of a representative variety of the cultures found within California.

(vii) The understanding of the impact that personal and social insecurity, social stress, low educational levels, inadequate housing, and malnutrition have on human development.

(C) The broad range of matters and life events that may arise within marriage and family relationships and within a variety of California cultures, including instruction in all of the following:

(i) Child and adult abuse assessment and reporting.

(ii) Spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(iii) Cultural factors relevant to abuse of partners and family members.

(iv) Childbirth, child rearing, parenting, and stepparenting.

(v) Marriage, divorce, and blended families.

(vi) Long-term care.

(vii) End of life and grief.

(viii) Poverty and deprivation.

(ix) Financial and social stress.

(x) Effects of trauma.

(xi) The psychological, psychotherapeutic, community, and health implications of the matters and life events described in clauses (i) to (x), inclusive.

(D) Cultural competency and sensitivity, including a familiarity with the racial, cultural, linguistic, and ethnic backgrounds of persons living in California.

(E) Multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability, and their incorporation into the psychotherapeutic process.

(F) The effects of socioeconomic status on treatment and available resources.

(G) Resilience, including the personal and community qualities that enable persons to cope with adversity, trauma, tragedy, threats, or other stresses.

(H) Human sexuality, including the study of physiological, psychological, and social cultural variables associated with sexual behavior and gender identity, and the assessment and treatment of psychosexual dysfunction.

(I) Substance use disorders, co-occurring disorders, and addiction, including, but not limited to, instruction in all of the following:

(i) The definition of substance use disorders, co-occurring disorders, and addiction. For purposes of this subparagraph, “co-occurring disorders” means a mental illness and substance abuse diagnosis occurring simultaneously in an individual.

(ii) Medical aspects of substance use disorders and co-occurring disorders.

(iii) The effects of psychoactive drug use.

(iv) Current theories of the etiology of substance abuse and addiction.

(v) The role of persons and systems that support or compound substance abuse and addiction.

(vi) Major approaches to identification, evaluation, and treatment of substance use disorders, co-occurring disorders, and addiction, including, but not limited to, best practices.

(vii) Legal aspects of substance abuse.

(viii) Populations at risk with regard to substance use disorders and co-occurring disorders.

(ix) Community resources offering screening, assessment, treatment, and followup for the affected person and family.

(x) Recognition of substance use disorders, co-occurring disorders, and addiction, and appropriate referral.

(xi) The prevention of substance use disorders and addiction.

(J) California law and professional ethics for marriage and family therapists, including instruction in all of the following areas of study:

(i) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the scope of practice of marriage and family therapy.

(ii) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including, but not limited to, family law.

(iii) The current legal patterns and trends in the mental health professions.

(iv) The psychotherapist-patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.

(v) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

(vi) Differences in legal and ethical standards for different types of work settings.

(vii) Licensing law and licensing process.

(e) The degree described in subdivision (b) shall, in addition to meeting the requirements of subdivision (d), include instruction in case management, systems of care for the severely mentally ill, public and private services and supports available for the severely mentally ill, community resources for persons with mental illness and for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill, and collaborative treatment. This instruction may be provided either in credit level coursework or through extension programs offered by the degree-granting institution.

(f) The changes made to law by this section are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice, and are not intended to expand or restrict the scope of practice for marriage and family therapists.

SEC. 27. Section 4980.37 of the Business and Professions Code is amended to read:

4980.37. (a) This section shall apply to applicants for licensure or registration who begin graduate study before August 1, 2012, and complete that study on or before December 31, 2018. Those applicants may alternatively qualify under paragraph (2) of subdivision (a) of Section 4980.36.

(b) To qualify for a license or registration, applicants shall possess a doctor's or master's degree in marriage, family, and child counseling, marriage and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university accredited by a regional accrediting agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. In order to qualify for licensure pursuant to this section, a doctor's or master's degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester or 72 quarter units of instruction. This instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment. The coursework shall include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their effect on individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, abuse and neglect of older and dependent adults, and geropsychology.

(4) A variety of approaches to the treatment of children.

The board shall, by regulation, set forth the subjects of instruction required in this subdivision.

(c) (1) In addition to the 12 semester or 18 quarter units of coursework specified in subdivision (b), the doctor's or master's degree program shall contain not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic technique, assessments, diagnosis, prognosis, and treatment of premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage and family therapist.

(2) For applicants who enrolled in a degree program on or after January 1, 1995, the practicum shall include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

(3) The practicum hours shall be considered as part of the 48 semester or 72 quarter unit requirement.

(d) As an alternative to meeting the qualifications specified in subdivision (b), the board shall accept as equivalent degrees those master's or doctor's degrees granted by educational institutions whose degree program is approved by the Commission on Accreditation for Marriage and Family Therapy Education.

(e) In order to provide an integrated course of study and appropriate professional training, while allowing for innovation and individuality in the education of marriage and family therapists, a degree program that meets the educational qualifications for licensure or registration under this section shall do all of the following:

(1) Provide an integrated course of study that trains students generally in the diagnosis, assessment, prognosis, and treatment of mental disorders.

(2) Prepare students to be familiar with the broad range of matters that may arise within marriage and family relationships.

(3) Train students specifically in the application of marriage and family relationship counseling principles and methods.

(4) Encourage students to develop those personal qualities that are intimately related to the counseling situation such as integrity, sensitivity, flexibility, insight, compassion, and personal presence.

(5) Teach students a variety of effective psychotherapeutic techniques and modalities that may be utilized to improve, restore, or maintain healthy individual, couple, and family relationships.

(6) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.

(7) Prepare students to be familiar with cross-cultural mores and values, including a familiarity with the wide range of racial and ethnic backgrounds common among California's population, including, but not limited to, Blacks, Hispanics, Asians, and Native Americans.

(f) Educational institutions are encouraged to design the practicum required by this section to include marriage and family therapy experience in low-income and multicultural mental health settings.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 28. Section 4980.40.5 of the Business and Professions Code is amended to read:

4980.40.5. (a) A doctoral or master's degree in marriage, family, and child counseling, marital and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling, or marriage and family therapy, obtained from a school, college, or university approved by the Bureau for Private Postsecondary Education as of June 30, 2007, shall be considered by the board to meet the requirements necessary for licensure as a marriage and family therapist and for registration as a marriage and family therapist intern provided that the degree is conferred on or before July 1, 2010.

(b) As an alternative to meeting the qualifications specified in subdivision (a) of Section 4980.40, the board shall accept as equivalent degrees those doctoral or master's degrees that otherwise meet the requirements of this chapter and are conferred by educational institutions accredited by any of the following associations:

- (1) Northwest Commission on Colleges and Universities.
- (2) Middle States Association of Colleges and Secondary Schools.
- (3) New England Association of Schools and Colleges.
- (4) North Central Association of Colleges and Secondary Schools.
- (5) Southern Association of Colleges and Schools.

SEC. 29. Section 4980.42 of the Business and Professions Code is amended to read:

4980.42. (a) Trainees performing services in any work setting specified in subdivision (d) of Section 4980.43 may perform those activities and services as a trainee, provided that the activities and services constitute part of the trainee's supervised course of study and that the person is designated

by the title “trainee.” Trainees may gain hours of experience outside the required practicum. Those hours shall be subject to the requirements of subdivision (b) and to the other requirements of this chapter.

(b) On and after January 1, 1995, all hours of experience gained as a trainee shall be coordinated between the school and the site where the hours are being accrued. The school shall approve each site and shall have a written agreement with each site that details each party’s responsibilities, including the methods by which supervision shall be provided. The agreement shall provide for regular progress reports and evaluations of the student’s performance at the site. If an applicant has gained hours of experience while enrolled in an institution other than the one that confers the qualifying degree, it shall be the applicant’s responsibility to provide to the board satisfactory evidence that those hours of trainee experience were gained in compliance with this section.

SEC. 29.5. Section 4980.42 of the Business and Professions Code is amended to read:

4980.42. (a) Trainees performing services in any work setting specified in subdivision (d) of Section 4980.43 may perform those activities and services as a trainee, provided that the activities and services constitute part of the trainee’s supervised course of study and that the person is designated by the title “trainee.”

(b) Trainees may gain hours of experience outside the required practicum but must be enrolled in a practicum course to counsel clients, as set forth in clause (iii) of subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36, except as provided in subdivision (c).

(c) Trainees may counsel clients while not enrolled in a practicum course if the period of lapsed enrollment is less than 90 calendar days, and if that period is immediately preceded and immediately followed by enrollment in a practicum course.

(d) All hours of experience gained pursuant to subdivisions (b) and (c) shall be subject to the requirements of subdivision (b) and to the other requirements of this chapter.

(e) On and after January 1, 1995, all hours of experience gained as a trainee shall be coordinated between the school and the site where the hours are being accrued. The school shall approve each site and shall have a written agreement with each site that details each party’s responsibilities, including the methods by which supervision shall be provided. The agreement shall provide for regular progress reports and evaluations of the student’s performance at the site. If an applicant has gained hours of experience while enrolled in an institution other than the one that confers the qualifying degree, it shall be the applicant’s responsibility to provide to the board satisfactory evidence that those hours of trainee experience were gained in compliance with this section.

SEC. 30. Section 4980.45 of the Business and Professions Code is amended to read:

4980.45. (a) A licensed professional in private practice who has satisfied the requirements of subdivision (g) of Section 4980.03 may supervise or

employ, at any one time, no more than a total of three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker in that private practice.

(b) A marriage and family therapy corporation may employ, at any one time, no more than a total of three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee or shareholder who has satisfied the requirements of subdivision (g) of Section 4980.03. In no event shall any marriage and family therapy corporation employ, at any one time, more than a total of 15 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. Persons who supervise individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker shall be employed full time by the marriage and family therapy corporation and shall be actively engaged in performing professional services at and for the marriage and family therapy corporation. Employment and supervision within a marriage and family therapy corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

SEC. 31. Section 4982.25 of the Business and Professions Code is amended to read:

4982.25. The board may deny an application, or may suspend or revoke a license or registration issued under this chapter, for any of the following:

(a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States, or by any other governmental agency, on a license, certificate, or registration to practice marriage and family therapy, or any other healing art, shall constitute unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a marriage and family therapist, clinical social worker, professional clinical counselor, or educational psychologist shall also constitute grounds for disciplinary action for unprofessional conduct against the licensee or registrant under this chapter.

SEC. 32. Section 4989.54 of the Business and Professions Code is amended to read:

4989.54. The board may deny a license or may suspend or revoke the license of a licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of an educational psychologist.

(1) The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(2) The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee under this chapter.

(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee under this chapter shall be deemed to be a conviction within the meaning of this section.

(4) The board may order a license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.

(b) Securing a license by fraud, deceit, or misrepresentation on an application for licensure submitted to the board, whether engaged in by an applicant for a license or by a licensee in support of an application for licensure.

(c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license. The board shall deny an application for a license or revoke the license of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing educational psychology.

(d) Failure to comply with the consent provisions in Section 2290.5.

(e) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(f) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(g) Commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.

(h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States or by any other governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.

(i) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as an educational psychologist, a clinical social worker, professional clinical counselor, or marriage and family therapist.

(j) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(k) Gross negligence or incompetence in the practice of educational psychology.

(l) Misrepresentation as to the type or status of a license held by the licensee or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(m) Intentionally or recklessly causing physical or emotional harm to any client.

(n) Engaging in sexual relations with a client or a former client within two years following termination of professional services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed educational psychologist.

(o) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services or the basis upon which that fee will be computed.

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients.

(q) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(r) Performing, holding himself or herself out as being able to perform, or offering to perform any professional services beyond the scope of the license authorized by this chapter or beyond his or her field or fields of competence as established by his or her education, training, or experience.

(s) Reproducing or describing in public, or in any publication subject to general public distribution, any psychological test or other assessment device the value of which depends in whole or in part on the naivete of the subject in ways that might invalidate the test or device. An educational psychologist shall limit access to the test or device to persons with professional interests who can be expected to safeguard its use.

(t) Aiding or abetting an unlicensed person to engage in conduct requiring a license under this chapter.

(u) When employed by another person or agency, encouraging, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.

(v) Failing to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(w) Failing to comply with the elder and adult dependent abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(x) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(y) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(z) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of the examination as described in Section 123.

(aa) Impersonation of another by any licensee or applicant for a license, or, in the case of a licensee, allowing any other person to use his or her license.

(ab) Permitting a person under his or her supervision or control to perform, or permitting that person to hold himself or herself out as competent to perform, professional services beyond the level of education, training, or experience of that person.

SEC. 33. Section 4990.38 of the Business and Professions Code is amended to read:

4990.38. The board may deny an application or may suspend or revoke a license or registration issued under the chapters it administers and enforces for any disciplinary action imposed by this state or another state or territory or possession of the United States, or by a governmental agency on a license, certificate or registration to practice marriage and family therapy, clinical social work, educational psychology, professional clinical counseling, or any other healing art. The disciplinary action, which may include denial of licensure or revocation or suspension of the license or imposition of restrictions on it, constitutes unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

SEC. 34. Section 4992.3 of the Business and Professions Code is amended to read:

4992.3. The board may deny a license or a registration, or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the

commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use drugs in the course of performing clinical social work. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a patient under his or her care.

(d) Incompetence in the performance of clinical social work.

(e) An act or omission that falls sufficiently below the standard of conduct of the profession as to constitute an act of gross negligence.

(f) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.

(g) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity. For purposes of this subdivision, this misrepresentation includes, but is not limited to, misrepresentation of the person's qualifications as an adoption service provider pursuant to Section 8502 of the Family Code.

(h) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(i) Aiding or abetting any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(j) Intentionally or recklessly causing physical or emotional harm to any client.

(k) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(l) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a clinical social worker.

(m) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any registered associate clinical social worker or intern under supervision to perform any professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(n) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(o) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (o).

(q) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(r) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device. A licensee shall limit access to that test or device to persons with professional interest who are expected to safeguard its use.

(s) Any conduct in the supervision of any registered associate clinical social worker, intern, or trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(t) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(u) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(v) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(w) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(x) Failure to comply with Section 2290.5.

(y) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(z) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of the examination as described in Section 123.

SEC. 35. Section 4992.36 of the Business and Professions Code is amended to read:

4992.36. The board may deny an application, or may suspend or revoke a license or registration issued under this chapter, for any of the following:

(a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory of the United States, or by any other governmental agency, on a license, certificate, or registration to practice clinical social work or any other healing art shall constitute grounds for disciplinary action for unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice clinical social work, marriage and family therapy, professional clinical counseling, or educational psychology against a licensee or registrant shall also constitute grounds for disciplinary action for unprofessional conduct under this chapter.

SEC. 36. Section 4996.13 of the Business and Professions Code is amended to read:

4996.13. Nothing in this article shall prevent qualified members of other professional groups from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, they shall not hold themselves out to the public by any title or description of services incorporating the words psychosocial, or clinical social worker, or

that they shall not state or imply that they are licensed to practice clinical social work. These qualified members of other professional groups include, but are not limited to, the following:

- (a) A physician and surgeon certified pursuant to Chapter 5 (commencing with Section 2000).
- (b) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900).
- (c) Members of the State Bar of California.
- (d) Marriage and family therapists licensed pursuant to Chapter 13 (commencing with Section 4980).
- (e) Licensed professional clinical counselors pursuant to Chapter 16 (commencing with Section 4999.10).
- (f) A priest, rabbi, or minister of the gospel of any religious denomination.

SEC. 37. Section 4996.24 of the Business and Professions Code is amended to read:

4996.24. (a) A licensee in private practice who has satisfied the requirements of Section 1870 of Title 16 of the California Code of Regulations may supervise or employ, at any one time, no more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker in that private practice.

(b) A licensed clinical social workers' corporation may employ, at any one time, no more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee or shareholder who has satisfied the requirements of Section 1870 of Title 16 of the California Code of Regulations.

(c) In no event shall any licensed clinical social workers' corporation employ, at any one time, more than a total of 15 individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. Persons who supervise individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker shall be employed full time by the licensed clinical social workers' corporation and shall be actively engaged in performing professional services at and for the licensed clinical social workers' corporation. Employment and supervision within the licensed clinical social workers' corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

SEC. 38. Section 4999.12 of the Business and Professions Code is amended to read:

4999.12. For purposes of this chapter, the following terms have the following meanings:

- (a) "Board" means the Board of Behavioral Sciences.

(b) “Accredited” means a school, college, or university accredited by the Western Association of Schools and Colleges, or its equivalent regional accrediting association.

(c) “Approved” means a school, college, or university that possessed unconditional approval by the Bureau for Private Postsecondary Education at the time of the applicant’s graduation from the school, college, or university.

(d) “Applicant” means an unlicensed person who has completed a master’s or doctoral degree program, as specified in Section 4999.32 or 4999.33, as applicable, and whose application for registration as an intern is pending or who has applied for examination eligibility, or an unlicensed person who has completed the requirements for licensure specified in this chapter and is no longer registered with the board as an intern.

(e) “Licensed professional clinical counselor” or “LPCC” means a person licensed under this chapter to practice professional clinical counseling, as defined in Section 4999.20.

(f) “Intern” means an unlicensed person who meets the requirements of Section 4999.42 and is registered with the board.

(g) “Clinical counselor trainee” means an unlicensed person who is currently enrolled in a master’s or doctoral degree program, as specified in Section 4999.32 or 4999.33, as applicable, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.

(h) “Approved supervisor” means an individual who meets the following requirements:

(1) Has documented two years of clinical experience as a licensed professional clinical counselor, licensed marriage and family therapist, licensed clinical psychologist, licensed clinical social worker, or licensed physician and surgeon who is certified in psychiatry by the American Board of Psychiatry and Neurology.

(2) Has received professional training in supervision.

(3) Has not provided therapeutic services to the clinical counselor trainee or intern.

(4) Has a current and valid license that is not under suspension or probation.

(i) “Client centered advocacy” includes, but is not limited to, researching, identifying, and accessing resources, or other activities, related to obtaining or providing services and supports for clients or groups of clients receiving psychotherapy or counseling services.

(j) “Advertising” or “advertise” includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a

congregation shall not be construed as advertising within the meaning of this chapter.

(k) “Referral” means evaluating and identifying the needs of a client to determine whether it is advisable to refer the client to other specialists, informing the client of that judgment, and communicating that determination as requested or deemed appropriate to referral sources.

(l) “Research” means a systematic effort to collect, analyze, and interpret quantitative and qualitative data that describes how social characteristics, behavior, emotion, cognitions, disabilities, mental disorders, and interpersonal transactions among individuals and organizations interact.

(m) “Supervision” includes the following:

(1) Ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the person being supervised.

(2) Reviewing client or patient records, monitoring and evaluating assessment, diagnosis, and treatment decisions of the clinical counselor trainee.

(3) Monitoring and evaluating the ability of the intern or clinical counselor trainee to provide services to the particular clientele at the site or sites where he or she will be practicing.

(4) Ensuring compliance with laws and regulations governing the practice of licensed professional clinical counseling.

(5) That amount of direct observation, or review of audio or videotapes of counseling or therapy, as deemed appropriate by the supervisor.

SEC. 39. Section 4999.90 of the Business and Professions Code is amended to read:

4999.90. The board may refuse to issue any registration or license, or may suspend or revoke the registration or license of any intern or licensed professional clinical counselor, if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to

withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing licensed professional clinical counseling services.

(d) Gross negligence or incompetence in the performance of licensed professional clinical counseling services.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee or registrant, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed professional clinical counselor.

(l) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any clinical counselor trainee or intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional clinical counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of a registered intern, associate clinical social worker, or clinical counselor trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a clinical counselor trainee or intern under one's supervision or control to perform, or permitting the clinical counselor trainee or intern to hold himself or herself out as competent to perform, professional services beyond the clinical counselor trainee's or intern's level of education, training, or experience.

(u) The violation of any statute or regulation of the standards of the profession, and the nature of the services being rendered, governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failing to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Repeated acts of negligence.

(z) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(aa) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

(ab) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a professional clinical counselor, clinical social worker, educational psychologist, or marriage and family therapist.

(ac) Failing to comply with the procedures set forth in Section 2290.5 when delivering health care via telemedicine.

SEC. 39.5. Section 4999.90 of the Business and Professions Code is amended to read:

4999.90. The board may refuse to issue any registration or license, or may suspend or revoke the registration or license of any intern or licensed professional clinical counselor, if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to

withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing licensed professional clinical counseling services.

(d) Gross negligence or incompetence in the performance of licensed professional clinical counseling services.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee or registrant, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed professional clinical counselor.

(l) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any clinical counselor trainee or intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional clinical counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of a registered intern, associate clinical social worker, or clinical counselor trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a clinical counselor trainee or intern under one's supervision or control to perform, or permitting the clinical counselor trainee or intern to hold himself or herself out as competent to perform, professional services beyond the clinical counselor trainee's or intern's level of education, training, or experience.

(u) The violation of any statute or regulation of the standards of the profession, and the nature of the services being rendered, governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failing to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Repeated acts of negligence.

(z) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(aa) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

(ab) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a professional clinical counselor, clinical social worker, educational psychologist, or marriage and family therapist.

(ac) Failing to comply with the procedures set forth in Section 2290.5 when delivering health care via telehealth.

SEC. 40. Section 4999.91 is added to the Business and Professions Code, to read:

4999.91. The board may deny any application, or may suspend or revoke any license or registration issued under this chapter, for any of the following:

(a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by this state or another state or territory of the United States, or by any other governmental agency, on a license, certificate, or registration to practice professional clinical counseling or any other healing art shall constitute grounds for disciplinary action for unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice clinical social work, professional clinical counseling, marriage and family therapy, or educational psychology shall also constitute grounds for disciplinary action for unprofessional conduct under this chapter.

SEC. 41. Section 4999.455 is added to the Business and Professions Code, to read:

4999.455. (a) A licensed professional in private practice who has satisfied the requirements of subdivision (h) of Section 4999.12 may supervise or employ, at any one time, no more than a total of three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker in that private practice.

(b) A professional clinical counselor corporation may employ, at any one time, no more than three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee or shareholder who has satisfied the requirements of subdivision (h) of Section 4999.12. In no event shall any professional clinical counselor corporation employ, at any one time, more than 15 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. Persons who supervise individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker shall be employed full time by the professional clinical counselor corporation and shall be actively engaged in performing professional services at and for the professional clinical counselor corporation. Employment and supervision within a professional clinical counselor corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

SEC. 42. Section 26.5 of this bill incorporates amendments to Section 4980.36 of the Business and Professions Code proposed by both this bill and Senate Bill 363. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, (2) each bill amends Section 4980.36 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 363, in which case Section 26 of this bill shall not become operative.

SEC. 43. Section 29.5 of this bill incorporates amendments to Section 4980.42 of the Business and Professions Code proposed by both this bill and Senate Bill 363. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, (2) each bill amends Section 4980.42 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 363, in which case Section 29 of this bill shall not become operative.

SEC. 44. Section 39.5 of this bill incorporates amendments to Section 4999.90 of the Business and Professions Code proposed by both this bill and Senate Bill 946. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, (2) each bill amends Section 4999.90 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 946, in which case Section 39 of this bill shall not become operative.

SEC. 45. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime

within the meaning of Section 6 of Article XIII B of the California Constitution.

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Attachment 2

Assembly Bill No. 507

CHAPTER 396

An act to amend Sections 124960 and 124961 of, and to repeal Section 11453 of, the Health and Safety Code, relating to public health.

[Approved by Governor October 2, 2011. Filed with
Secretary of State October 2, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 507, Hayashi. Controlled substances: pain management.

(1) Existing law authorizes the Department of Justice to employ a physician to interview and examine any patient in connection with the prescription, possession, or use of a controlled substance, requires the patient to submit to the interview and examination, and authorizes the physician to testify in prescribed administrative proceedings.

This bill would repeal that provision.

(2) Existing law, the Medical Practice Act, provides for the licensing and regulation of physicians and surgeons by the Medical Board of California. The violation of specified provisions of the act is a crime. Existing law authorizes a physician and surgeon to prescribe for, or dispense or administer to, a person under his or her treatment for a medical condition, drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, intractable pain. Existing law sets forth the Pain Patient's Bill of Rights.

This bill would revise the Pain Patient's Bill of Rights.

The people of the State of California do enact as follows:

SECTION 1. Section 11453 of the Health and Safety Code is repealed.

SEC. 2. Section 124960 of the Health and Safety Code is amended to read:

124960. The Legislature finds and declares all of the following:

- (a) The state has a right and duty to control the illegal use of opiate drugs.
- (b) Inadequate treatment of acute and chronic pain originating from cancer or noncancerous conditions is a significant health problem.
- (c) For some patients, pain management is the single most important treatment a physician can provide.
- (d) A patient suffering from severe chronic intractable pain should have access to proper treatment of his or her pain.
- (e) Due to the complexity of their problems, many patients suffering from severe chronic intractable pain may require referral to a physician with expertise in the treatment of severe chronic intractable pain. In some cases,

severe chronic intractable pain is best treated by a team of clinicians in order to address the associated physical, psychological, social, and vocational issues.

(f) In the hands of knowledgeable, ethical, and experienced pain management practitioners, opiates administered for severe acute pain and severe chronic intractable pain can be safe.

(g) Opiates can be an accepted treatment for patients in severe chronic intractable pain who have not obtained relief from any other means of treatment.

(h) A patient suffering from severe chronic intractable pain has the option to request or reject the use of any or all modalities to relieve his or her pain.

(i) A physician treating a patient who suffers from severe chronic intractable pain may prescribe a dosage deemed medically necessary to relieve pain as long as the prescribing is in conformance with Section 2241.5 of the Business and Professions Code.

(j) A patient who suffers from severe chronic intractable pain has the option to choose opiate medication for the treatment of the severe chronic intractable pain as long as the prescribing is in conformance with Section 2241.5 of the Business and Professions Code.

(k) The patient's physician may refuse to prescribe opiate medication for a patient who requests the treatment for severe chronic intractable pain. However, that physician shall inform the patient that there are physicians who treat severe chronic intractable pain with methods that include the use of opiates.

SEC. 3. Section 124961 of the Health and Safety Code is amended to read:

124961. Nothing in this section shall be construed to alter any of the provisions set forth in Section 2241.5 of the Business and Professions Code. This section shall be known as the Pain Patient's Bill of Rights.

(a) A patient who suffers from severe chronic intractable pain has the option to request or reject the use of any or all modalities in order to relieve his or her pain.

(b) A patient who suffers from severe chronic intractable pain has the option to choose opiate medications to relieve that pain without first having to submit to an invasive medical procedure, which is defined as surgery, destruction of a nerve or other body tissue by manipulation, or the implantation of a drug delivery system or device, as long as the prescribing physician acts in conformance with the California Intractable Pain Treatment Act, Section 2241.5 of the Business and Professions Code.

(c) The patient's physician may refuse to prescribe opiate medication for the patient who requests a treatment for severe chronic intractable pain. However, that physician shall inform the patient that there are physicians who treat pain and whose methods include the use of opiates.

(d) A physician who uses opiate therapy to relieve severe chronic intractable pain may prescribe a dosage deemed medically necessary to relieve the patient's pain, as long as that prescribing is in conformance with Section 2241.5 of the Business and Professions Code.

(e) A patient may voluntarily request that his or her physician provide an identifying notice of the prescription for purposes of emergency treatment or law enforcement identification.

(f) Nothing in this section shall do either of the following:

(1) Limit any reporting or disciplinary provisions applicable to licensed physicians and surgeons who violate prescribing practices or other provisions set forth in the Medical Practice Act, Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or the regulations adopted thereunder.

(2) Limit the applicability of any federal statute or federal regulation or any of the other statutes or regulations of this state that regulate dangerous drugs or controlled substances.

Attachment 3

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN ASSEMBLY MAY 26, 2011

AMENDED IN ASSEMBLY MAY 11, 2011

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1280

**Introduced by Assembly Member Hill
(Coauthor: Assembly Member Hagman)**

February 18, 2011

An act to amend, repeal, and add Section 11100 of, and to add and repeal Section 11100.02 of, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1280, as amended, Hill. Ephedrine: retail sale.

(1) Existing law classifies controlled substances into 5 schedules, with the most restrictive limitations placed on controlled substances classified in Schedule I, and the least restrictive limitations placed on controlled substances classified in Schedule V. A controlled substance in any of the schedules may be possessed or dispensed only upon a lawful prescription, as specified. Existing law does not classify ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine within any of these 5 schedules, but provides that it is a crime, punishable as specified, for a person in this state who engages in specified transactions involving those drugs to fail to submit a report to the Department of Justice of all of those transactions, or to fail to submit an application to, and obtain a permit for the conduct of

that business from, the Department of Justice, as specified. Existing law prohibits the sale of more than 3 packages or 9 grams of a nonprescription product containing ephedrine or the other drugs, as specified.

This bill would instead provide that it is a misdemeanor, punishable as specified, for any retail distributor, except pursuant to a valid prescription from a licensed practitioner with prescriptive authority, to sell or distribute to a person specified amounts of nonprescription products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine within specified time limits, to sell or distribute any of those substances to a person whose information has generated an alert, or, except under specified conditions, to sell or distribute to any purchaser a nonprescription product containing any amount of those substances. The bill would contain provisions requiring the secure storage and monitoring of products containing any amount of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, as specified.

The bill would require retail distributors to transmit, on and after July 1, 2012, sale information to the National Precursor Log Exchange (NPLEx) for purposes of determining whether the sale would violate these provisions. The bill would require the Department of Justice to enter into a memorandum of understanding with the National Association of Drug Diversion Investigators regarding the transaction records in NPLEx, as specified. The bill would provide that the information in the system may not be used for any purpose other than to meet the requirements of, or comply with, this act or a certain federal act, as specified. *The bill would require that the system be available to the department and state law enforcement at no charge and would prohibit the Department of Justice or any other state agency from bearing any cost for the development, installation, or maintenance of the system.* The bill would specify legislative findings and intent. The bill's provisions would remain in effect only until January 1, 2018. By creating a new crime, this bill would impose a state-mandated local program.

This bill would incorporate changes to Section 11100 of the Health and Safety Code made by AB 109, which has been chaptered but is not operative, to become operative only if AB 109 becomes operative.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11100 of the Health and Safety Code is
- 2 amended to read:
- 3 11100. (a) Any manufacturer, wholesaler, retailer, or other
- 4 person or entity in this state that sells, transfers, or otherwise
- 5 furnishes any of the following substances to any person or entity
- 6 in this state or any other state shall submit a report to the
- 7 Department of Justice of all of those transactions:
- 8 (1) Phenyl-2-propanone.
- 9 (2) Methylamine.
- 10 (3) Ethylamine.
- 11 (4) D-lysergic acid.
- 12 (5) Ergotamine tartrate.
- 13 (6) Diethyl malonate.
- 14 (7) Malonic acid.
- 15 (8) Ethyl malonate.
- 16 (9) Barbituric acid.
- 17 (10) Piperidine.
- 18 (11) N-acetylanthranilic acid.
- 19 (12) Pyrrolidine.
- 20 (13) Phenylacetic acid.
- 21 (14) Anthranilic acid.
- 22 (15) Morpholine.
- 23 (16) Ephedrine.
- 24 (17) Pseudoephedrine.
- 25 (18) Norpseudoephedrine.
- 26 (19) Phenylpropanolamine.
- 27 (20) Propionic anhydride.
- 28 (21) Isosafrole.
- 29 (22) Safrole.
- 30 (23) Piperonal.
- 31 (24) Thionylchloride.
- 32 (25) Benzyl cyanide.
- 33 (26) Ergonovine maleate.

- 1 (27) N-methylephedrine.
- 2 (28) N-ethylephedrine.
- 3 (29) N-methylpseudoephedrine.
- 4 (30) N-ethylpseudoephedrine.
- 5 (31) Chloroephedrine.
- 6 (32) Chloropseudoephedrine.
- 7 (33) Hydriodic acid.
- 8 (34) Gamma-butyrolactone, including butyrolactone;
- 9 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;
- 10 dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;
- 11 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;
- 12 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone
- 13 with Chemical Abstract Service number (96-48-0).
- 14 (35) 1,4-butanediol, including butanediol; butane-1,4-diol;
- 15 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;
- 16 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene
- 17 1,4-diol with Chemical Abstract Service number (110-63-4).
- 18 (36) Red phosphorus, including white phosphorus,
- 19 hypophosphorous acid and its salts, ammonium hypophosphite,
- 20 calcium hypophosphite, iron hypophosphite, potassium
- 21 hypophosphite, manganese hypophosphite, magnesium
- 22 hypophosphite, sodium hypophosphite, and phosphorous acid and
- 23 its salts.
- 24 (37) Iodine or tincture of iodine.
- 25 (38) Any of the substances listed by the Department of Justice
- 26 in regulations promulgated pursuant to subdivision (b).
- 27 (b) The Department of Justice may adopt rules and regulations
- 28 in accordance with Chapter 3.5 (commencing with Section 11340)
- 29 of Part 1 of Division 3 of Title 2 of the Government Code that add
- 30 substances to subdivision (a) if the substance is a precursor to a
- 31 controlled substance and delete substances from subdivision (a).
- 32 However, no regulation adding or deleting a substance shall have
- 33 any effect beyond March 1 of the year following the calendar year
- 34 during which the regulation was adopted.
- 35 (c) (1) (A) Any manufacturer, wholesaler, retailer, or other
- 36 person or entity in this state, prior to selling, transferring, or
- 37 otherwise furnishing any substance specified in subdivision (a) to
- 38 any person or business entity in this state or any other state, shall
- 39 require (i) a letter of authorization from that person or business
- 40 entity that includes the currently valid business license number or

1 federal Drug Enforcement Administration (DEA) registration
2 number, the address of the business, and a full description of how
3 the substance is to be used, and (ii) proper identification from the
4 purchaser. The manufacturer, wholesaler, retailer, or other person
5 or entity in this state shall retain this information in a readily
6 available manner for three years. The requirement for a full
7 description of how the substance is to be used does not require the
8 person or business entity to reveal their chemical processes that
9 are typically considered trade secrets and proprietary information.

10 (B) For the purposes of this paragraph, “proper identification”
11 for in-state or out-of-state purchasers includes two or more of the
12 following: federal tax identification number; seller’s permit
13 identification number; city or county business license number;
14 license issued by the State Department of Public Health;
15 registration number issued by the federal Drug Enforcement
16 Administration; precursor business permit number issued by the
17 Bureau of Narcotic Enforcement of the Department of Justice;
18 driver’s license; or other identification issued by a state.

19 (2) (A) Any manufacturer, wholesaler, retailer, or other person
20 or entity in this state that exports a substance specified in
21 subdivision (a) to any person or business entity located in a foreign
22 country shall, on or before the date of exportation, submit to the
23 Department of Justice a notification of that transaction, which
24 notification shall include the name and quantity of the substance
25 to be exported and the name, address, and, if assigned by the
26 foreign country or subdivision thereof, business identification
27 number of the person or business entity located in a foreign country
28 importing the substance.

29 (B) The department may authorize the submission of the
30 notification on a monthly basis with respect to repeated, regular
31 transactions between an exporter and an importer involving a
32 substance specified in subdivision (a), if the department determines
33 that a pattern of regular supply of the substance exists between the
34 exporter and importer and that the importer has established a record
35 of utilization of the substance for lawful purposes.

36 (d) (1) Any manufacturer, wholesaler, retailer, or other person
37 or entity in this state that sells, transfers, or otherwise furnishes a
38 substance specified in subdivision (a) to a person or business entity
39 in this state or any other state shall, not less than 21 days prior to
40 delivery of the substance, submit a report of the transaction, which

1 includes the identification information specified in subdivision
2 (c), to the Department of Justice. The Department of Justice may
3 authorize the submission of the reports on a monthly basis with
4 respect to repeated, regular transactions between the furnisher and
5 the recipient involving the substance or substances if the
6 Department of Justice determines that a pattern of regular supply
7 of the substance or substances exists between the manufacturer,
8 wholesaler, retailer, or other person or entity that sells, transfers,
9 or otherwise furnishes the substance or substances and the recipient
10 of the substance or substances, and the recipient has established a
11 record of utilization of the substance or substances for lawful
12 purposes.

13 (2) The person selling, transferring, or otherwise furnishing any
14 substance specified in subdivision (a) shall affix his or her signature
15 or otherwise identify himself or herself as a witness to the
16 identification of the purchaser or purchasing individual, and shall,
17 if a common carrier is used, maintain a manifest of the delivery
18 to the purchaser for three years.

19 (e) This section shall not apply to any of the following:

20 (1) Any pharmacist or other authorized person who sells or
21 furnishes a substance upon the prescription of a physician, dentist,
22 podiatrist, or veterinarian.

23 (2) Any physician, dentist, podiatrist, or veterinarian who
24 administers or furnishes a substance to his or her patients.

25 (3) Any manufacturer or wholesaler licensed by the California
26 State Board of Pharmacy that sells, transfers, or otherwise furnishes
27 a substance to a licensed pharmacy, physician, dentist, podiatrist,
28 or veterinarian, or a retail distributor as defined in subdivision (h),
29 provided that the manufacturer or wholesaler submits records of
30 any suspicious sales or transfers as determined by the Department
31 of Justice.

32 (4) Any analytical research facility that is registered with the
33 federal Drug Enforcement Administration of the United States
34 Department of Justice.

35 (5) A state-licensed health care facility that administers or
36 furnishes a substance to its patients.

37 (6) (A) Any sale, transfer, furnishing, or receipt of any product
38 that contains ephedrine, pseudoephedrine, norpseudoephedrine,
39 or phenylpropanolamine and which is lawfully sold, transferred,
40 or furnished over the counter without a prescription pursuant to

1 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et
2 seq.) or regulations adopted thereunder. However, this section
3 shall apply to preparations in solid or liquid dosage form, except
4 pediatric liquid forms, as defined, containing ephedrine,
5 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine
6 where the individual transaction involves more than three packages
7 or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,
8 or phenylpropanolamine.

9 (B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or
10 phenylpropanolamine product subsequently removed from
11 exemption pursuant to Section 814 of Title 21 of the United States
12 Code shall similarly no longer be exempt from any state reporting
13 or permitting requirement, unless otherwise reinstated pursuant to
14 ~~subsection (d) of Section 814~~ *Section 814(d)* of Title 21 of the
15 United States Code as an exempt product.

16 (7) The sale, transfer, furnishing, or receipt of any betadine or
17 povidone solution with an iodine content not exceeding 1 percent
18 in containers of eight ounces or less, or any tincture of iodine not
19 exceeding 2 percent in containers of one ounce or less, that is sold
20 over the counter.

21 (8) Any transfer of a substance specified in subdivision (a) for
22 purposes of lawful disposal as waste.

23 (f) (1) Any person specified in subdivision (a) or (d) who does
24 not submit a report as required by that subdivision or who
25 knowingly submits a report with false or fictitious information
26 shall be punished by imprisonment in a county jail not exceeding
27 six months, by a fine not exceeding five thousand dollars (\$5,000),
28 or by both the fine and imprisonment.

29 (2) Any person specified in subdivision (a) or (d) who has
30 previously been convicted of a violation of paragraph (1) shall,
31 upon a subsequent conviction thereof, be punished by
32 imprisonment in the state prison, or by imprisonment in a county
33 jail not exceeding one year, by a fine not exceeding one hundred
34 thousand dollars (\$100,000), or by both the fine and imprisonment.

35 (g) (1) Except as otherwise provided in subparagraph (A) of
36 paragraph (6) of subdivision (e), it is unlawful for any
37 manufacturer, wholesaler, retailer, or other person to sell, transfer,
38 or otherwise furnish a substance specified in subdivision (a) to a
39 person under 18 years of age.

(2) Except as otherwise provided in subparagraph (A) of paragraph (6) of subdivision (e), it is unlawful for any person under 18 years of age to possess a substance specified in subdivision (a).

(3) (A) A first violation of this subdivision is a misdemeanor.

(B) Any person who has previously been convicted of a violation of this subdivision shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

(h) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 1.5. Section 11100 of the Health and Safety Code, as amended by Section 145 of Chapter 15 of the Statutes of 2011, is amended to read:

11100. (a) Any manufacturer, wholesaler, retailer, or other person or entity in this state that sells, transfers, or otherwise furnishes any of the following substances to any person or entity in this state or any other state shall submit a report to the Department of Justice of all of those transactions:

- (1) Phenyl-2-propanone.
- (2) Methylamine.
- (3) Ethylamine.
- (4) D-lysergic acid.
- (5) Ergotamine tartrate.
- (6) Diethyl malonate.
- (7) Malonic acid.
- (8) Ethyl malonate.
- (9) Barbituric acid.
- (10) Piperidine.
- (11) N-acetylanthranilic acid.
- (12) Pyrrolidine.
- (13) Phenylacetic acid.
- (14) Anthranilic acid.
- (15) Morpholine.
- (16) Ephedrine.
- (17) Pseudoephedrine.
- (18) Norpseudoephedrine.
- (19) Phenylpropanolamine.
- (20) Propionic anhydride.

- 1 (21) Isosafrole.
- 2 (22) Safrole.
- 3 (23) Piperonal.
- 4 (24) Thionylchloride.
- 5 (25) Benzyl cyanide.
- 6 (26) Ergonovine maleate.
- 7 (27) N-methylephedrine.
- 8 (28) N-ethylephedrine.
- 9 (29) N-methylpseudoephedrine.
- 10 (30) N-ethylpseudoephedrine.
- 11 (31) Chloroephedrine.
- 12 (32) Chloropseudoephedrine.
- 13 (33) Hydriodic acid.
- 14 (34) Gamma-butyrolactone, including butyrolactone;
15 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;
16 dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;
17 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;
18 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone
19 with Chemical Abstract Service number (96-48-0).
- 20 (35) 1,4-butanediol, including butanediol; butane-1,4-diol;
21 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;
22 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene
23 1,4-diol with Chemical Abstract Service number (110-63-4).
- 24 (36) Red phosphorus, including white phosphorus,
25 hypophosphorous acid and its salts, ammonium hypophosphite,
26 calcium hypophosphite, iron hypophosphite, potassium
27 hypophosphite, manganese hypophosphite, magnesium
28 hypophosphite, sodium hypophosphite, and phosphorous acid and
29 its salts.
- 30 (37) Iodine or tincture of iodine.
- 31 (38) Any of the substances listed by the Department of Justice
32 in regulations promulgated pursuant to subdivision (b).
- 33 (b) The Department of Justice may adopt rules and regulations
34 in accordance with Chapter 3.5 (commencing with Section 11340)
35 of Part 1 of Division 3 of Title 2 of the Government Code that add
36 substances to subdivision (a) if the substance is a precursor to a
37 controlled substance and delete substances from subdivision (a).
38 However, no regulation adding or deleting a substance shall have
39 any effect beyond March 1 of the year following the calendar year
40 during which the regulation was adopted.

1 (c) (1) (A) Any manufacturer, wholesaler, retailer, or other
2 person or entity in this state, prior to selling, transferring, or
3 otherwise furnishing any substance specified in subdivision (a) to
4 any person or business entity in this state or any other state, shall
5 require ~~(A)~~ (i) a letter of authorization from that person or business
6 entity that includes the currently valid business license number or
7 federal Drug Enforcement Administration (DEA) registration
8 number, the address of the business, and a full description of how
9 the substance is to be used, and ~~(B)~~ (ii) proper identification from
10 the purchaser. The manufacturer, wholesaler, retailer, or other
11 person or entity in this state shall retain this information in a readily
12 available manner for three years. The requirement for a full
13 description of how the substance is to be used does not require the
14 person or business entity to reveal their chemical processes that
15 are typically considered trade secrets and proprietary information.

16 (B) For the purposes of this paragraph, “proper identification”
17 for in-state or out-of-state purchasers includes two or more of the
18 following: federal tax identification number; seller’s permit
19 identification number; city or county business license number;
20 license issued by the ~~California Department of Health Services~~
21 *State Department of Public Health*; registration number issued by
22 the ~~Federal~~ federal Drug Enforcement Administration; precursor
23 business permit number issued by the Bureau of Narcotic
24 Enforcement of the ~~California~~ Department of Justice; driver’s
25 license; or other identification issued by a state.

26 (2) (A) Any manufacturer, wholesaler, retailer, or other person
27 or entity in this state that exports a substance specified in
28 subdivision (a) to any person or business entity located in a foreign
29 country shall, on or before the date of exportation, submit to the
30 Department of Justice a notification of that transaction, which
31 notification shall include the name and quantity of the substance
32 to be exported and the name, address, and, if assigned by the
33 foreign country or subdivision thereof, business identification
34 number of the person or business entity located in a foreign country
35 importing the substance.

36 (B) The department may authorize the submission of the
37 notification on a monthly basis with respect to repeated, regular
38 transactions between an exporter and an importer involving a
39 substance specified in subdivision (a), if the department determines
40 that a pattern of regular supply of the substance exists between the

1 exporter and importer and that the importer has established a record
2 of utilization of the substance for lawful purposes.

3 (d) (1) Any manufacturer, wholesaler, retailer, or other person
4 or entity in this state that sells, transfers, or otherwise furnishes a
5 substance specified in subdivision (a) to a person or business entity
6 in this state or any other state shall, not less than 21 days prior to
7 delivery of the substance, submit a report of the transaction, which
8 includes the identification information specified in subdivision
9 (c), to the Department of Justice. The Department of Justice may
10 authorize the submission of the reports on a monthly basis with
11 respect to repeated, regular transactions between the furnisher and
12 the recipient involving the substance or substances if the
13 Department of Justice determines that a pattern of regular supply
14 of the substance or substances exists between the manufacturer,
15 wholesaler, retailer, or other person or entity that sells, transfers,
16 or otherwise furnishes the substance or substances and the recipient
17 of the substance or substances, and the recipient has established a
18 record of utilization of the substance or substances for lawful
19 purposes.

20 (2) The person selling, transferring, or otherwise furnishing any
21 substance specified in subdivision (a) shall affix his or her signature
22 or otherwise identify himself or herself as a witness to the
23 identification of the purchaser or purchasing individual, and shall,
24 if a common carrier is used, maintain a manifest of the delivery
25 to the purchaser for three years.

26 (e) This section shall not apply to any of the following:

27 (1) Any pharmacist or other authorized person who sells or
28 furnishes a substance upon the prescription of a physician, dentist,
29 podiatrist, or veterinarian.

30 (2) Any physician, dentist, podiatrist, or veterinarian who
31 administers or furnishes a substance to his or her patients.

32 (3) Any manufacturer or wholesaler licensed by the California
33 State Board of Pharmacy that sells, transfers, or otherwise furnishes
34 a substance to a licensed pharmacy, physician, dentist, podiatrist,
35 or veterinarian, or a retail distributor as defined in subdivision (h),
36 provided that the manufacturer or wholesaler submits records of
37 any suspicious sales or transfers as determined by the Department
38 of Justice.

1 (4) Any analytical research facility that is registered with the
2 federal Drug Enforcement Administration of the United States
3 Department of Justice.

4 (5) A state-licensed health care facility that administers or
5 furnishes a substance to its patients.

6 (6) (A) Any sale, transfer, furnishing, or receipt of any product
7 that contains ephedrine, pseudoephedrine, norpseudoephedrine,
8 or phenylpropanolamine and which is lawfully sold, transferred,
9 or furnished over the counter without a prescription pursuant to
10 the ~~federal~~ *Federal* Food, Drug, and Cosmetic Act (21 U.S.C. Sec.
11 301 et seq.) or regulations adopted thereunder. However, this
12 section shall apply to preparations in solid or liquid dosage form,
13 except pediatric liquid forms, as defined, containing ephedrine,
14 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine
15 where the individual transaction involves more than three packages
16 or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,
17 or phenylpropanolamine.

18 (B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or
19 phenylpropanolamine product subsequently removed from
20 exemption pursuant to Section 814 of Title 21 of the United States
21 Code shall similarly no longer be exempt from any state reporting
22 or permitting requirement, unless otherwise reinstated pursuant to
23 ~~subdivision (d) or (e) of Section 814~~ *814(d)* of Title 21 of the
24 United States Code as an exempt product.

25 (7) The sale, transfer, furnishing, or receipt of any betadine or
26 povidone solution with an iodine content not exceeding 1 percent
27 in containers of eight ounces or less, or any tincture of iodine not
28 exceeding 2 percent in containers of one ounce or less, that is sold
29 over the counter.

30 (8) Any transfer of a substance specified in subdivision (a) for
31 purposes of lawful disposal as waste.

32 (f) (1) Any person specified in subdivision (a) or (d) who does
33 not submit a report as required by that subdivision or who
34 knowingly submits a report with false or fictitious information
35 shall be punished by imprisonment in a county jail not exceeding
36 six months, by a fine not exceeding five thousand dollars (\$5,000),
37 or by both the fine and imprisonment.

38 (2) Any person specified in subdivision (a) or (d) who has
39 previously been convicted of a violation of paragraph (1) shall,
40 upon a subsequent conviction thereof, be punished by

1 imprisonment pursuant to subdivision (h) of Section 1170 of the
2 Penal Code, or by imprisonment in a county jail not exceeding one
3 year, by a fine not exceeding one hundred thousand dollars
4 (\$100,000), or by both the fine and imprisonment.

5 (g) (1) Except as otherwise provided in subparagraph (A) of
6 paragraph (6) of subdivision (e), it is unlawful for any
7 manufacturer, wholesaler, retailer, or other person to sell, transfer,
8 or otherwise furnish a substance specified in subdivision (a) to a
9 person under 18 years of age.

10 (2) Except as otherwise provided in subparagraph (A) of
11 paragraph (6) of subdivision (e), it is unlawful for any person under
12 18 years of age to possess a substance specified in subdivision (a).

13 ~~(3) Notwithstanding any other law, it is unlawful for any retail~~
14 ~~distributor to (i) sell in a single transaction more than three~~
15 ~~packages of a product that he or she knows to contain ephedrine,~~
16 ~~pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,~~
17 ~~or (ii) knowingly sell more than nine grams of ephedrine,~~
18 ~~pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,~~
19 ~~other than pediatric liquids as defined. Except as otherwise~~
20 ~~provided in this section, the three package per transaction limitation~~
21 ~~or nine gram per transaction limitation imposed by this paragraph~~
22 ~~shall apply to any product that is lawfully sold, transferred, or~~
23 ~~furnished over the counter without a prescription pursuant to the~~
24 ~~federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.),~~
25 ~~or regulations adopted thereunder, unless exempted from the~~
26 ~~requirements of the federal Controlled Substances Act by the~~
27 ~~federal Drug Enforcement Administration pursuant to Section 814~~
28 ~~of Title 21 of the United States Code.~~

29 (4)

30 (3) (A) A first violation of this subdivision is a misdemeanor.

31 (B) Any person who has previously been convicted of a violation
32 of this subdivision shall, upon a subsequent conviction thereof, be
33 punished by imprisonment in a county jail not exceeding one year,
34 by a fine not exceeding ten thousand dollars (\$10,000), or by both
35 the fine and imprisonment.

36 ~~(h) For the purposes of this article, the following terms have~~
37 ~~the following meanings:~~

38 (1) ~~“Drug store” is any entity described in Code 5912 of the~~
39 ~~Standard Industrial Classification (SIC) Manual published by the~~
40 ~~United States Office of Management and Budget, 1987 edition.~~

(2) “General merchandise store” is any entity described in Codes 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(3) “Grocery store” is any entity described in Code 5411 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(4) “Pediatric liquid” means a nonencapsulated liquid whose unit measure according to product labeling is stated in milligrams, ounces, or other similar measure. In no instance shall the dosage units exceed 15 milligrams of phenylpropanolamine or pseudoephedrine per five milliliters of liquid product, except for liquid products primarily intended for administration to children under two years of age for which the recommended dosage unit does not exceed two milliliters and the total package content does not exceed one fluid ounce.

(5) “Retail distributor” means a grocery store, general merchandise store, drugstore, or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products, are limited exclusively to the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products for personal use both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. “Retail distributor” includes an entity that makes a direct sale, but does not include the parent company of that entity if the company is not involved in direct sales regulated by this article.

(6) “Sale for personal use” means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine in dosages at or below that specified in paragraph (3) of subdivision (g). “Sale for personal use” also includes the sale of those products to employers to be dispensed to employees from first-aid kits or medicine chests.

(i) It is the intent of the Legislature that this section shall preempt all local ordinances or regulations governing the sale by a retail distributor of over-the-counter products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.

1 (h) *This section shall remain in effect only until January 1, 2018,*
2 *and as of that date is repealed, unless a later enacted statute, that*
3 *is enacted before January 1, 2018, deletes or extends that date.*

4 SEC. 2. Section 11100 is added to the Health and Safety Code,
5 to read:

6 11100. (a) Any manufacturer, wholesaler, retailer, or other
7 person or entity in this state that sells, transfers, or otherwise
8 furnishes any of the following substances to any person or entity
9 in this state or any other state shall submit a report to the
10 Department of Justice of all of those transactions:

- 11 (1) Phenyl-2-propanone.
- 12 (2) Methylamine.
- 13 (3) Ethylamine.
- 14 (4) D-lysergic acid.
- 15 (5) Ergotamine tartrate.
- 16 (6) Diethyl malonate.
- 17 (7) Malonic acid.
- 18 (8) Ethyl malonate.
- 19 (9) Barbituric acid.
- 20 (10) Piperidine.
- 21 (11) N-acetylanthranilic acid.
- 22 (12) Pyrrolidine.
- 23 (13) Phenylacetic acid.
- 24 (14) Anthranilic acid.
- 25 (15) Morpholine.
- 26 (16) Ephedrine.
- 27 (17) Pseudoephedrine.
- 28 (18) Norpseudoephedrine.
- 29 (19) Phenylpropanolamine.
- 30 (20) Propionic anhydride.
- 31 (21) Isosafrole.
- 32 (22) Safrole.
- 33 (23) Piperonal.
- 34 (24) Thionylchloride.
- 35 (25) Benzyl cyanide.
- 36 (26) Ergonovine maleate.
- 37 (27) N-methylephedrine.
- 38 (28) N-ethylephedrine.
- 39 (29) N-methylpseudoephedrine.
- 40 (30) N-ethylpseudoephedrine.

- 1 (31) Chloroephedrine.
2 (32) Chloropseudoephedrine.
3 (33) Hydriodic acid.
4 (34) Gamma-butyrolactone, including butyrolactone;
5 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;
6 dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;
7 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;
8 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone
9 with Chemical Abstract Service number (96-48-0).
10 (35) 1,4-butanediol, including butanediol; butane-1,4-diol;
11 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;
12 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene
13 1,4-diol with Chemical Abstract Service number (110-63-4).
14 (36) Red phosphorus, including white phosphorus,
15 hypophosphorous acid and its salts, ammonium hypophosphite,
16 calcium hypophosphite, iron hypophosphite, potassium
17 hypophosphite, manganese hypophosphite, magnesium
18 hypophosphite, sodium hypophosphite, and phosphorous acid and
19 its salts.
20 (37) Iodine or tincture of iodine.
21 (38) Any of the substances listed by the Department of Justice
22 in regulations promulgated pursuant to subdivision (b).
23 (b) The Department of Justice may adopt rules and regulations
24 in accordance with Chapter 3.5 (commencing with Section 11340)
25 of Part 1 of Division 3 of Title 2 of the Government Code that add
26 substances to subdivision (a) if the substance is a precursor to a
27 controlled substance and delete substances from subdivision (a).
28 However, no regulation adding or deleting a substance shall have
29 any effect beyond March 1 of the year following the calendar year
30 during which the regulation was adopted.
31 (c) (1) (A) Any manufacturer, wholesaler, retailer, or other
32 person or entity in this state, prior to selling, transferring, or
33 otherwise furnishing any substance specified in subdivision (a) to
34 any person or business entity in this state or any other state, shall
35 require (i) a letter of authorization from that person or business
36 entity that includes the currently valid business license number or
37 federal Drug Enforcement Administration (DEA) registration
38 number, the address of the business, and a full description of how
39 the substance is to be used, and (ii) proper identification from the
40 purchaser. The manufacturer, wholesaler, retailer, or other person

1 or entity in this state shall retain this information in a readily
2 available manner for three years. The requirement for a full
3 description of how the substance is to be used does not require the
4 person or business entity to reveal their chemical processes that
5 are typically considered trade secrets and proprietary information.

6 (B) For the purposes of this paragraph, “proper identification”
7 for in-state or out-of-state purchasers includes two or more of the
8 following: federal tax identification number; seller’s permit
9 identification number; city or county business license number;
10 license issued by the State Department of Public Health;
11 registration number issued by the federal Drug Enforcement
12 Administration; precursor business permit number issued by the
13 Bureau of Narcotic Enforcement of the Department of Justice;
14 driver’s license; or other identification issued by a state.

15 (2) (A) Any manufacturer, wholesaler, retailer, or other person
16 or entity in this state that exports a substance specified in
17 subdivision (a) to any person or business entity located in a foreign
18 country shall, on or before the date of exportation, submit to the
19 Department of Justice a notification of that transaction, which
20 notification shall include the name and quantity of the substance
21 to be exported and the name, address, and, if assigned by the
22 foreign country or subdivision thereof, business identification
23 number of the person or business entity located in a foreign country
24 importing the substance.

25 (B) The department may authorize the submission of the
26 notification on a monthly basis with respect to repeated, regular
27 transactions between an exporter and an importer involving a
28 substance specified in subdivision (a), if the department determines
29 that a pattern of regular supply of the substance exists between the
30 exporter and importer and that the importer has established a record
31 of utilization of the substance for lawful purposes.

32 (d) (1) Any manufacturer, wholesaler, retailer, or other person
33 or entity in this state that sells, transfers, or otherwise furnishes a
34 substance specified in subdivision (a) to a person or business entity
35 in this state or any other state shall, not less than 21 days prior to
36 delivery of the substance, submit a report of the transaction, which
37 includes the identification information specified in subdivision
38 (c), to the Department of Justice. The Department of Justice may
39 authorize the submission of the reports on a monthly basis with
40 respect to repeated, regular transactions between the furnisher and

1 the recipient involving the substance or substances if the
2 Department of Justice determines that a pattern of regular supply
3 of the substance or substances exists between the manufacturer,
4 wholesaler, retailer, or other person or entity that sells, transfers,
5 or otherwise furnishes the substance or substances and the recipient
6 of the substance or substances, and the recipient has established a
7 record of utilization of the substance or substances for lawful
8 purposes.

9 (2) The person selling, transferring, or otherwise furnishing any
10 substance specified in subdivision (a) shall affix his or her signature
11 or otherwise identify himself or herself as a witness to the
12 identification of the purchaser or purchasing individual, and shall,
13 if a common carrier is used, maintain a manifest of the delivery
14 to the purchaser for three years.

15 (e) This section shall not apply to any of the following:

16 (1) Any pharmacist or other authorized person who sells or
17 furnishes a substance upon the prescription of a physician, dentist,
18 podiatrist, or veterinarian.

19 (2) Any physician, dentist, podiatrist, or veterinarian who
20 administers or furnishes a substance to his or her patients.

21 (3) Any manufacturer or wholesaler licensed by the California
22 State Board of Pharmacy that sells, transfers, or otherwise furnishes
23 a substance to a licensed pharmacy, physician, dentist, podiatrist,
24 or veterinarian, or a retail distributor as defined in subdivision (h),
25 provided that the manufacturer or wholesaler submits records of
26 any suspicious sales or transfers as determined by the Department
27 of Justice.

28 (4) Any analytical research facility that is registered with the
29 federal Drug Enforcement Administration of the United States
30 Department of Justice.

31 (5) A state-licensed health care facility that administers or
32 furnishes a substance to its patients.

33 (6) (A) Any sale, transfer, furnishing, or receipt of any product
34 that contains ephedrine, pseudoephedrine, norpseudoephedrine,
35 or phenylpropanolamine and which is lawfully sold, transferred,
36 or furnished over the counter without a prescription pursuant to
37 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et
38 seq.) or regulations adopted thereunder. However, this section
39 shall apply to preparations in solid or liquid dosage form, except
40 pediatric liquid forms, as defined, containing ephedrine,

1 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine
2 where the individual transaction involves more than three packages
3 or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,
4 or phenylpropanolamine.

5 (B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or
6 phenylpropanolamine product subsequently removed from
7 exemption pursuant to Section 814 of Title 21 of the United States
8 Code shall similarly no longer be exempt from any state reporting
9 or permitting requirement, unless otherwise reinstated pursuant to
10 ~~subsection (d) of Section 814~~ *Section 814(d)* of Title 21 of the
11 United States Code as an exempt product.

12 (7) The sale, transfer, furnishing, or receipt of any betadine or
13 povidone solution with an iodine content not exceeding 1 percent
14 in containers of eight ounces or less, or any tincture of iodine not
15 exceeding 2 percent in containers of one ounce or less, that is sold
16 over the counter.

17 (8) Any transfer of a substance specified in subdivision (a) for
18 purposes of lawful disposal as waste.

19 (f) (1) Any person specified in subdivision (a) or (d) who does
20 not submit a report as required by that subdivision or who
21 knowingly submits a report with false or fictitious information
22 shall be punished by imprisonment in a county jail not exceeding
23 six months, by a fine not exceeding five thousand dollars (\$5,000),
24 or by both the fine and imprisonment.

25 (2) Any person specified in subdivision (a) or (d) who has
26 previously been convicted of a violation of paragraph (1) shall,
27 upon a subsequent conviction thereof, be punished by
28 imprisonment in the state prison, or by imprisonment in a county
29 jail not exceeding one year, by a fine not exceeding one hundred
30 thousand dollars (\$100,000), or by both the fine and imprisonment.

31 (g) (1) Except as otherwise provided in subparagraph (A) of
32 paragraph (6) of subdivision (e), it is unlawful for any
33 manufacturer, wholesaler, retailer, or other person to sell, transfer,
34 or otherwise furnish a substance specified in subdivision (a) to a
35 person under 18 years of age.

36 (2) Except as otherwise provided in subparagraph (A) of
37 paragraph (6) of subdivision (e), it is unlawful for any person under
38 18 years of age to possess a substance specified in subdivision (a).

39 (3) Notwithstanding any other law, it is unlawful for any retail
40 distributor to (A) sell in a single transaction more than three

1 packages of a product that he or she knows to contain ephedrine,
2 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,
3 or (B) knowingly sell more than nine grams of ephedrine,
4 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,
5 other than pediatric liquids as defined. Except as otherwise
6 provided in this section, the three package per transaction limitation
7 or nine gram per transaction limitation imposed by this paragraph
8 shall apply to any product that is lawfully sold, transferred, or
9 furnished over the counter without a prescription pursuant to the
10 Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et
11 seq.), or regulations adopted thereunder, unless exempted from
12 the requirements of the federal Controlled Substances Act (21
13 U.S.C. Sec. 801 et seq.) by the federal Drug Enforcement
14 Administration pursuant to Section 814 of Title 21 of the United
15 States Code.

16 (4) (A) A first violation of this subdivision is a misdemeanor.

17 (B) Any person who has previously been convicted of a violation
18 of this subdivision shall, upon a subsequent conviction thereof, be
19 punished by imprisonment in a county jail not exceeding one year,
20 by a fine not exceeding ten thousand dollars (\$10,000), or by both
21 the fine and imprisonment.

22 (h) For the purposes of this article, the following terms have
23 the following meanings:

24 (1) “Drug store” is any entity described in Code 5912 of the
25 Standard Industrial Classification (SIC) Manual published by the
26 United States Office of Management and Budget, 1987 edition.

27 (2) “General merchandise store” is any entity described in Codes
28 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial
29 Classification (SIC) Manual published by the United States Office
30 of Management and Budget, 1987 edition.

31 (3) “Grocery store” is any entity described in Code 5411 of the
32 Standard Industrial Classification (SIC) Manual published by the
33 United States Office of Management and Budget, 1987 edition.

34 (4) “Pediatric liquid” means a nonencapsulated liquid whose
35 unit measure according to product labeling is stated in milligrams,
36 ounces, or other similar measure. In no instance shall the dosage
37 units exceed 15 milligrams of phenylpropanolamine or
38 pseudoephedrine per five milliliters of liquid product, except for
39 liquid products primarily intended for administration to children
40 under two years of age for which the recommended dosage unit

1 does not exceed two milliliters and the total package content does
2 not exceed one fluid ounce.

3 (5) “Retail distributor” means a grocery store, general
4 merchandise store, drugstore, or other related entity, the activities
5 of which, as a distributor of ephedrine, pseudoephedrine,
6 norpseudoephedrine, or phenylpropanolamine products, are limited
7 exclusively to the sale of ephedrine, pseudoephedrine,
8 norpseudoephedrine, or phenylpropanolamine products for personal
9 use both in number of sales and volume of sales, either directly to
10 walk-in customers or in face-to-face transactions by direct sales.
11 “Retail distributor” includes an entity that makes a direct sale, but
12 does not include the parent company of that entity if the company
13 is not involved in direct sales regulated by this article.

14 (6) “Sale for personal use” means the sale in a single transaction
15 to an individual customer for a legitimate medical use of a product
16 containing ephedrine, pseudoephedrine, norpseudoephedrine, or
17 phenylpropanolamine in dosages at or below that specified in
18 paragraph (3) of subdivision (g). “Sale for personal use” also
19 includes the sale of those products to employers to be dispensed
20 to employees from first aid kits or medicine chests.

21 (i) It is the intent of the Legislature that this section shall
22 preempt all local ordinances or regulations governing the sale by
23 a retail distributor of over-the-counter products containing
24 ephedrine, pseudoephedrine, norpseudoephedrine, or
25 phenylpropanolamine.

26 (j) This section shall become operative on January 1, 2018.

27 *SEC. 2.5. Section 11100 is added to the Health and Safety*
28 *Code, to read:*

29 *11100. (a) Any manufacturer, wholesaler, retailer, or other*
30 *person or entity in this state that sells, transfers, or otherwise*
31 *furnishes any of the following substances to any person or entity*
32 *in this state or any other state shall submit a report to the*
33 *Department of Justice of all of those transactions:*

34 *(1) Phenyl-2-propanone.*

35 *(2) Methylamine.*

36 *(3) Ethylamine.*

37 *(4) D-lysergic acid.*

38 *(5) Ergotamine tartrate.*

39 *(6) Diethyl malonate.*

40 *(7) Malonic acid.*

- 1 (8) *Ethyl malonate.*
- 2 (9) *Barbituric acid.*
- 3 (10) *Piperidine.*
- 4 (11) *N-acetylanthranilic acid.*
- 5 (12) *Pyrrolidine.*
- 6 (13) *Phenylacetic acid.*
- 7 (14) *Anthranilic acid.*
- 8 (15) *Morpholine.*
- 9 (16) *Ephedrine.*
- 10 (17) *Pseudoephedrine.*
- 11 (18) *Norpseudoephedrine.*
- 12 (19) *Phenylpropanolamine.*
- 13 (20) *Propionic anhydride.*
- 14 (21) *Isosafrole.*
- 15 (22) *Safrole.*
- 16 (23) *Piperonal.*
- 17 (24) *Thionylchloride.*
- 18 (25) *Benzyl cyanide.*
- 19 (26) *Ergonovine maleate.*
- 20 (27) *N-methylephedrine.*
- 21 (28) *N-ethylephedrine.*
- 22 (29) *N-methylpseudoephedrine.*
- 23 (30) *N-ethylpseudoephedrine.*
- 24 (31) *Chloroephedrine.*
- 25 (32) *Chloropseudoephedrine.*
- 26 (33) *Hydriodic acid.*
- 27 (34) *Gamma-butyrolactone, including butyrolactone;*
28 *butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;*
29 *dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;*
30 *1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;*
31 *3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone*
32 *with Chemical Abstract Service number (96-48-0).*
- 33 (35) *1,4-butanediol, including butanediol; butane-1,4-diol;*
34 *1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;*
35 *1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene*
36 *1,4-diol with Chemical Abstract Service number (110-63-4).*
- 37 (36) *Red phosphorus, including white phosphorus,*
38 *hypophosphorous acid and its salts, ammonium hypophosphite,*
39 *calcium hypophosphite, iron hypophosphite, potassium*
40 *hypophosphite, manganese hypophosphite, magnesium*

1 *hypophosphite, sodium hypophosphite, and phosphorous acid and*
2 *its salts.*

3 *(37) Iodine or tincture of iodine.*

4 *(38) Any of the substances listed by the Department of Justice*
5 *in regulations promulgated pursuant to subdivision (b).*

6 *(b) The Department of Justice may adopt rules and regulations*
7 *in accordance with Chapter 3.5 (commencing with Section 11340)*
8 *of Part 1 of Division 3 of Title 2 of the Government Code that add*
9 *substances to subdivision (a) if the substance is a precursor to a*
10 *controlled substance and delete substances from subdivision (a).*
11 *However, no regulation adding or deleting a substance shall have*
12 *any effect beyond March 1 of the year following the calendar year*
13 *during which the regulation was adopted.*

14 *(c) (1) (A) Any manufacturer, wholesaler, retailer, or other*
15 *person or entity in this state, prior to selling, transferring, or*
16 *otherwise furnishing any substance specified in subdivision (a) to*
17 *any person or business entity in this state or any other state, shall*
18 *require (i) a letter of authorization from that person or business*
19 *entity that includes the currently valid business license number or*
20 *federal Drug Enforcement Administration (DEA) registration*
21 *number, the address of the business, and a full description of how*
22 *the substance is to be used, and (ii) proper identification from the*
23 *purchaser. The manufacturer, wholesaler, retailer, or other person*
24 *or entity in this state shall retain this information in a readily*
25 *available manner for three years. The requirement for a full*
26 *description of how the substance is to be used does not require the*
27 *person or business entity to reveal their chemical processes that*
28 *are typically considered trade secrets and proprietary information.*

29 *(B) For the purposes of this paragraph, "proper identification"*
30 *for in-state or out-of-state purchasers includes two or more of the*
31 *following: federal tax identification number; seller's permit*
32 *identification number; city or county business license number;*
33 *license issued by the State Department of Public Health;*
34 *registration number issued by the federal Drug Enforcement*
35 *Administration; precursor business permit number issued by the*
36 *Bureau of Narcotic Enforcement of the Department of Justice;*
37 *driver's license; or other identification issued by a state.*

38 *(2) (A) Any manufacturer, wholesaler, retailer, or other person*
39 *or entity in this state that exports a substance specified in*
40 *subdivision (a) to any person or business entity located in a foreign*

1 country shall, on or before the date of exportation, submit to the
2 Department of Justice a notification of that transaction, which
3 notification shall include the name and quantity of the substance
4 to be exported and the name, address, and, if assigned by the
5 foreign country or subdivision thereof, business identification
6 number of the person or business entity located in a foreign country
7 importing the substance.

8 (B) The department may authorize the submission of the
9 notification on a monthly basis with respect to repeated, regular
10 transactions between an exporter and an importer involving a
11 substance specified in subdivision (a), if the department determines
12 that a pattern of regular supply of the substance exists between
13 the exporter and importer and that the importer has established
14 a record of utilization of the substance for lawful purposes.

15 (d) (1) Any manufacturer, wholesaler, retailer, or other person
16 or entity in this state that sells, transfers, or otherwise furnishes
17 a substance specified in subdivision (a) to a person or business
18 entity in this state or any other state shall, not less than 21 days
19 prior to delivery of the substance, submit a report of the
20 transaction, which includes the identification information specified
21 in subdivision (c), to the Department of Justice. The Department
22 of Justice may authorize the submission of the reports on a monthly
23 basis with respect to repeated, regular transactions between the
24 furnisher and the recipient involving the substance or substances
25 if the Department of Justice determines that a pattern of regular
26 supply of the substance or substances exists between the
27 manufacturer, wholesaler, retailer, or other person or entity that
28 sells, transfers, or otherwise furnishes the substance or substances
29 and the recipient of the substance or substances, and the recipient
30 has established a record of utilization of the substance or
31 substances for lawful purposes.

32 (2) The person selling, transferring, or otherwise furnishing
33 any substance specified in subdivision (a) shall affix his or her
34 signature or otherwise identify himself or herself as a witness to
35 the identification of the purchaser or purchasing individual, and
36 shall, if a common carrier is used, maintain a manifest of the
37 delivery to the purchaser for three years.

38 (e) This section shall not apply to any of the following:

1 (1) Any pharmacist or other authorized person who sells or
2 furnishes a substance upon the prescription of a physician, dentist,
3 podiatrist, or veterinarian.

4 (2) Any physician, dentist, podiatrist, or veterinarian who
5 administers or furnishes a substance to his or her patients.

6 (3) Any manufacturer or wholesaler licensed by the California
7 State Board of Pharmacy that sells, transfers, or otherwise
8 furnishes a substance to a licensed pharmacy, physician, dentist,
9 podiatrist, or veterinarian, or a retail distributor as defined in
10 subdivision (h), provided that the manufacturer or wholesaler
11 submits records of any suspicious sales or transfers as determined
12 by the Department of Justice.

13 (4) Any analytical research facility that is registered with the
14 federal Drug Enforcement Administration of the United States
15 Department of Justice.

16 (5) A state-licensed health care facility that administers or
17 furnishes a substance to its patients.

18 (6) (A) Any sale, transfer, furnishing, or receipt of any product
19 that contains ephedrine, pseudoephedrine, norpseudoephedrine,
20 or phenylpropanolamine and which is lawfully sold, transferred,
21 or furnished over the counter without a prescription pursuant to
22 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et
23 seq.) or regulations adopted thereunder. However, this section
24 shall apply to preparations in solid or liquid dosage form, except
25 pediatric liquid forms, as defined, containing ephedrine,
26 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine
27 where the individual transaction involves more than three packages
28 or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,
29 or phenylpropanolamine.

30 (B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or
31 phenylpropanolamine product subsequently removed from
32 exemption pursuant to Section 814 of Title 21 of the United States
33 Code shall similarly no longer be exempt from any state reporting
34 or permitting requirement, unless otherwise reinstated pursuant
35 to Section 814 (d) of Title 21 of the United States Code as an
36 exempt product.

37 (7) The sale, transfer, furnishing, or receipt of any betadine or
38 povidone solution with an iodine content not exceeding 1 percent
39 in containers of eight ounces or less, or any tincture of iodine not

1 *exceeding 2 percent in containers of one ounce or less, that is sold*
2 *over the counter.*

3 *(8) Any transfer of a substance specified in subdivision (a) for*
4 *purposes of lawful disposal as waste.*

5 *(f) (1) Any person specified in subdivision (a) or (d) who does*
6 *not submit a report as required by that subdivision or who*
7 *knowingly submits a report with false or fictitious information*
8 *shall be punished by imprisonment in a county jail not exceeding*
9 *six months, by a fine not exceeding five thousand dollars (\$5,000),*
10 *or by both the fine and imprisonment.*

11 *(2) Any person specified in subdivision (a) or (d) who has*
12 *previously been convicted of a violation of paragraph (1) shall,*
13 *upon a subsequent conviction thereof, be punished by imprisonment*
14 *pursuant to subdivision (h) of Section 1170 of the Penal Code, or*
15 *by imprisonment in a county jail not exceeding one year, by a fine*
16 *not exceeding one hundred thousand dollars (\$100,000), or by*
17 *both the fine and imprisonment.*

18 *(g) (1) Except as otherwise provided in subparagraph (A) of*
19 *paragraph (6) of subdivision (e), it is unlawful for any*
20 *manufacturer, wholesaler, retailer, or other person to sell, transfer,*
21 *or otherwise furnish a substance specified in subdivision (a) to a*
22 *person under 18 years of age.*

23 *(2) Except as otherwise provided in subparagraph (A) of*
24 *paragraph (6) of subdivision (e), it is unlawful for any person*
25 *under 18 years of age to possess a substance specified in*
26 *subdivision (a).*

27 *(3) Notwithstanding any other law, it is unlawful for any retail*
28 *distributor to (A) sell in a single transaction more than three*
29 *packages of a product that he or she knows to contain ephedrine,*
30 *pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,*
31 *or (B) knowingly sell more than nine grams of ephedrine,*
32 *pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,*
33 *other than pediatric liquids as defined. Except as otherwise*
34 *provided in this section, the three package per transaction*
35 *limitation or nine gram per transaction limitation imposed by this*
36 *paragraph shall apply to any product that is lawfully sold,*
37 *transferred, or furnished over the counter without a prescription*
38 *pursuant to the Federal Food, Drug, and Cosmetic Act (21 U.S.C.*
39 *Sec. 301 et seq.), or regulations adopted thereunder, unless*
40 *exempted from the requirements of the federal Controlled*

1 *Substances Act (21 U.S.C. Sec. 801 et seq.) by the federal Drug*
2 *Enforcement Administration pursuant to Section 814 of Title 21*
3 *of the United States Code.*

4 (4) (A) *A first violation of this subdivision is a misdemeanor.*

5 (B) *Any person who has previously been convicted of a violation*
6 *of this subdivision shall, upon a subsequent conviction thereof, be*
7 *punished by imprisonment in a county jail not exceeding one year;*
8 *by a fine not exceeding ten thousand dollars (\$10,000), or by both*
9 *the fine and imprisonment.*

10 (h) *For the purposes of this article, the following terms have*
11 *the following meanings:*

12 (1) *“Drug store” is any entity described in Code 5912 of the*
13 *Standard Industrial Classification (SIC) Manual published by the*
14 *United States Office of Management and Budget, 1987 edition.*

15 (2) *“General merchandise store” is any entity described in*
16 *Codes 5311 to 5399, inclusive, and Code 5499 of the Standard*
17 *Industrial Classification (SIC) Manual published by the United*
18 *States Office of Management and Budget, 1987 edition.*

19 (3) *“Grocery store” is any entity described in Code 5411 of the*
20 *Standard Industrial Classification (SIC) Manual published by the*
21 *United States Office of Management and Budget, 1987 edition.*

22 (4) *“Pediatric liquid” means a nonencapsulated liquid whose*
23 *unit measure according to product labeling is stated in milligrams,*
24 *ounces, or other similar measure. In no instance shall the dosage*
25 *units exceed 15 milligrams of phenylpropanolamine or*
26 *pseudoephedrine per five milliliters of liquid product, except for*
27 *liquid products primarily intended for administration to children*
28 *under two years of age for which the recommended dosage unit*
29 *does not exceed two milliliters and the total package content does*
30 *not exceed one fluid ounce.*

31 (5) *“Retail distributor” means a grocery store, general*
32 *merchandise store, drugstore, or other related entity, the activities*
33 *of which, as a distributor of ephedrine, pseudoephedrine,*
34 *norpseudoephedrine, or phenylpropanolamine products, are limited*
35 *exclusively to the sale of ephedrine, pseudoephedrine,*
36 *norpseudoephedrine, or phenylpropanolamine products for*
37 *personal use both in number of sales and volume of sales, either*
38 *directly to walk-in customers or in face-to-face transactions by*
39 *direct sales. “Retail distributor” includes an entity that makes a*
40 *direct sale, but does not include the parent company of that entity*

1 *if the company is not involved in direct sales regulated by this*
2 *article.*

3 (6) “Sale for personal use” means the sale in a single
4 transaction to an individual customer for a legitimate medical use
5 of a product containing ephedrine, pseudoephedrine,
6 norpseudoephedrine, or phenylpropanolamine in dosages at or
7 below that specified in paragraph (3) of subdivision (g). “Sale for
8 personal use” also includes the sale of those products to employers
9 to be dispensed to employees from first aid kits or medicine chests.

10 (i) It is the intent of the Legislature that this section shall
11 preempt all local ordinances or regulations governing the sale by
12 a retail distributor of over-the-counter products containing
13 ephedrine, pseudoephedrine, norpseudoephedrine, or
14 phenylpropanolamine.

15 (j) This section shall become operative on January 1, 2018.

16 SEC. 3. Section 11100.02 is added to the Health and Safety
17 Code, to read:

18 11100.02. (a) Notwithstanding any other law, it is unlawful
19 for any retail distributor to knowingly do the following, except
20 pursuant to a valid prescription from a licensed practitioner with
21 prescriptive authority:

22 (1) To sell or distribute to the same purchaser within any 30-day
23 period more than nine grams, or within any day more than 3.6
24 grams, of ephedrine base, pseudoephedrine base,
25 norpseudoephedrine base, or phenylpropanolamine base contained
26 in any product that is lawfully sold, transferred, or furnished over
27 the counter without a prescription pursuant to the Federal Food,
28 Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), or regulations
29 adopted thereunder, unless exempted from the requirements of the
30 federal Controlled Substances Act (21 U.S.C. Sec. 801 et seq.) by
31 the federal Drug Enforcement Administration pursuant to Section
32 814 of Title 21 of the United States Code.

33 (2) To sell or distribute any ephedrine, pseudoephedrine,
34 norpseudoephedrine, or phenylpropanolamine to a person whose
35 information has generated an alert as described in paragraph (3)
36 of subdivision (d) regarding that sale.

37 (3) To sell or distribute to any purchaser a nonprescription
38 product containing any amount of ephedrine, pseudoephedrine,
39 norpseudoephedrine, or phenylpropanolamine, except under the
40 following conditions:

1 (A) The purchaser shall produce valid government-issued photo
2 identification.

3 (B) The purchaser shall sign a written or electronic log showing
4 the following:

5 (i) The date and time of the transaction.

6 (ii) The identification number presented.

7 (iii) The agency issuing the identification and the type of
8 identification issued.

9 (iv) The name, date of birth, and address of the purchaser.

10 (v) The amount of ephedrine base, pseudoephedrine base,
11 norpseudoephedrine base, or phenylpropanolamine base contained
12 in the material, compound, mixture, or preparation sold.

13 (b) The retail distributor shall store any product containing any
14 amount of ephedrine, pseudoephedrine, norpseudoephedrine, or
15 phenylpropanolamine either behind the counter or in a locked
16 cabinet so that the customer does not have access to the product.

17 (c) (1) To facilitate the monitoring of the sales of
18 nonprescription products containing ephedrine, pseudoephedrine,
19 norpseudoephedrine, or phenylpropanolamine, the retail distributor
20 shall record all of the following information at the point of sale
21 regarding the proposed transaction for the purpose of complying
22 with this section or the federal Combat Methamphetamine
23 Epidemic Act of 2005, or any regulation adopted pursuant to this
24 section or that act, and for no other purpose:

25 (A) The date and time of the transaction.

26 (B) The identification number of the purchaser, issuing agency
27 of the identification, and the type of identification used.

28 (C) The name, date of birth, and address of the purchaser
29 verified through a photo identification of the purchaser.

30 (D) The name, quantity of packages, and total gram weight of
31 ephedrine base, pseudoephedrine base, norpseudoephedrine base,
32 or phenylpropanolamine base contained in a product or products
33 purchased, received, or otherwise acquired.

34 (E) The name or initials of the person making the sale.

35 (2) On and after July 1, 2012, the retail distributor shall transmit
36 the information immediately to the National Precursor Log
37 Exchange (NPLEx) administered by the National Association of
38 Drug Diversion Investigators (NADDI) for purposes of determining
39 whether the proposed sale would violate this section and therefore
40 may not proceed, provided that the NPLEx system is available to

1 retailers in the state without a charge for accessing the system. The
2 transaction information shall not be accessed, stored, or used by
3 the retail distributor for any purpose other than to meet the
4 requirements set forth in this section or to comply with the
5 provisions of the federal Combat Methamphetamine Epidemic Act
6 of 2005, or any regulation adopted pursuant to this section or that
7 act. The retail distributor shall not maintain a separate copy of the
8 transaction information except as required by the federal Combat
9 Methamphetamine Epidemic Act of 2005.

10 (3) (A) A retail distributor shall provide notice electronically,
11 in writing, or by signage to purchasers that the information
12 collected pursuant to the federal Combat Methamphetamine
13 Epidemic Act of 2005 and this section shall be provided to law
14 enforcement for purposes of determining the legality of a proposed
15 sale.

16 (B) The Legislature finds that it is necessary for probable cause
17 to be demonstrated to trigger an investigation in connection with
18 an individual whose requested purchase is denied by the system a
19 single time.

20 (4) This subdivision shall not be construed to require a retail
21 distributor to maintain state-required records relating to the sale
22 of products containing ephedrine, pseudoephedrine,
23 norpseudoephedrine, or phenylpropanolamine in a separate location
24 or log from records required by federal law to be kept with respect
25 to those products.

26 (5) The recording requirements specified in this subdivision
27 shall not apply to the sale of a single package containing not more
28 than 60 milligrams of pseudoephedrine, consistent with the federal
29 Combat Methamphetamine Epidemic Act of 2005.

30 (6) If a retail distributor experiences mechanical or electronic
31 failure of the system and is unable to comply with the recording
32 requirements of this subdivision, the retail distributor shall maintain
33 the required records in a written log or an alternative electronic
34 recordkeeping mechanism until the retail distributor is able to
35 comply with the recording requirements of this subdivision.

36 (d) (1) Provided that the department executes a memorandum
37 of understanding (MOU) with NADDI governing access, pursuant
38 to this subdivision, NADDI shall forward California transaction
39 records in NPLeX to the Department of Justice weekly and provide
40 real-time access to NPLeX information through the NPLeX online

portal to law enforcement in the state as authorized by the department.

(2) Access to the system shall be available at no charge to the department and law enforcement in this state as authorized pursuant to paragraph (1).

~~(2)~~

(3) The system shall allow retail distributors of products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine to enter into the database the information specified in subdivision (c) regarding the proposed sale of those products.

~~(3)~~

(4) The system shall be capable of providing the retail distributor with an immediate real-time alert any time any provision of this section is being violated by a proposed sale.

(5) Neither the department nor any state agency shall bear any cost for the development, installation, or maintenance of the system.

~~(4)~~

(6) The MOU shall state that no party to the MOU nor any entity under contract to provide the electronic authorization and monitoring system shall be authorized to use the information contained in the system for any purpose other than those set forth in this section, the federal Combat Methamphetamine Epidemic Act of 2005, or any regulation adopted pursuant to this section or that act. However, the system operator shall be authorized to analyze the information for the sole purpose of assessing and improving the performance and efficacy of the system. In addition, the MOU shall require that any retail distributor's access to the electronic authorization and monitoring system's database is limited solely to records of sales transactions made by that retail distributor, which access shall be solely for purposes of complying with the federal Combat Methamphetamine Epidemic Act of 2005 or this section, or to respond to a duly authorized law enforcement request or court order for information collected under that act or this section.

~~(5)~~

(7) The system's security program shall comply with the security standards for the Criminal Justice Information System of the Federal Bureau of Investigation and may be audited once a year by the department.

1 ~~(6)~~

2 (8) A retail distributor's use of the system shall be subject to
3 Section 56.101 of the Civil Code. A retail distributor shall not
4 maintain any records collected under this system for longer than
5 two years, or as otherwise required by the federal Combat
6 Methamphetamine Epidemic Act of 2005.

7 ~~(7)~~

8 (9) Law enforcement access to the system shall be recorded by
9 means of a unique access code for each individual accessing the
10 system. Each user's history shall be maintained and may be audited
11 by the department.

12 ~~(8)~~

13 (10) The department may submit recommendations to NADDI
14 regarding system changes to assist in identifying false identification
15 cards.

16 (e) The State Board of Equalization shall notify all retailers
17 about the requirement to submit transactions to NPLeX no later
18 than April 1, 2012.

19 (f) This section shall not apply to a health care practitioner with
20 prescriptive authority who is currently licensed in this state.

21 (g) (1) A first violation of this section is a misdemeanor.

22 (2) Any person who has previously been convicted of a violation
23 of this section shall, upon a subsequent conviction thereof, be
24 punished by imprisonment in a county jail not exceeding one year,
25 by a fine not exceeding ten thousand dollars (\$10,000), or by both
26 the fine and imprisonment.

27 (h) For the purposes of this section, the following terms have
28 the following meanings:

29 (1) "Department" means the Department of Justice.

30 (2) "Drug store" is any entity described in Code 5912 of the
31 Standard Industrial Classification (SIC) Manual published by the
32 United States Office of Management and Budget, 1987 edition.

33 (3) "General merchandise store" is any entity described in Codes
34 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial
35 Classification (SIC) Manual published by the United States Office
36 of Management and Budget, 1987 edition.

37 (4) "Grocery store" is any entity described in Code 5411 of the
38 Standard Industrial Classification (SIC) Manual published by the
39 United States Office of Management and Budget, 1987 edition.

(5) “Retail distributor” means a grocery store, general merchandise store, drugstore, or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products, are limited exclusively to the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products for personal use both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. “Retail distributor” includes an entity that makes a direct sale, but does not include the parent company of that entity if the company is not involved in direct sales regulated by this article.

(6) “Sale for personal use” means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine in amounts at or below that specified in subdivision (a). “Sale for personal use” also includes the sale of those products to employers to be dispensed to employees from first aid kits or medicine chests.

(i) It is the intent of the Legislature that this section shall preempt all local ordinances or regulations governing the sale by a retail distributor of over-the-counter products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.

(j) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 4. Sections 1.5 and 2.5 of this bill incorporate amendments to Section 11100 of the Health and Safety Code proposed by both this bill and Assembly Bill 109, which has been chaptered but is not operative. Sections 1.5 and 2.5 shall become operative only if (1) this bill is enacted and becomes effective on or before January 1, 2012, (2) this bill amends Section 11100 of the Health and Safety Code, and (3) Assembly Bill 109 becomes operative, in which case Section 11100 of the Health and Safety Code, as amended by Sections 1 and 2 of this bill, shall remain operative only until the operative date of Assembly Bill 109, at which time Sections 1.5 and 2.5 of this bill shall become operative.

~~SEC. 4.~~

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

O

Senate Bill No. 360

CHAPTER 418

An act to amend Sections 11161.5, 11162.1, 11165, and 11165.1 of, and to add Sections 11165.2 and 11165.3 to, the Health and Safety Code, relating to controlled substances.

[Approved by Governor October 2, 2011. Filed with
Secretary of State October 2, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 360, DeSaulnier. Controlled Substance Utilization Review and Evaluation System.

Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice, contingent upon the availability of adequate funds from various funds related to health care, as specified, to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

Existing law defines a security printer as a person approved to produce controlled substance prescription forms. Existing law requires that prescription forms for controlled substance prescriptions be obtained from security printers approved by the Department of Justice. These provisions authorize the department to approve a security printer who provides specified information to the department, including the location, names, and titles of the applicant's agent for service of process, all principal corporate officers, if any, and all managing general partners, if any. Existing law also requires those persons to provide a signed statement indicating whether they have ever been convicted of, or pled no contest to, a violation of any law or ordinance. Existing law authorizes the department to revoke its approval of a security printer for a violation of these provisions or action that would permit a denial.

This bill would expand those requirements imposed on an applicant for approval as a security printer to additionally require the applicant to provide the location, names, and titles of any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor of the applicant who has direct access to, or management or control of, controlled substance prescription forms and require those persons to submit the signed statement described above. The bill would also make conforming and related changes. In addition, the bill would require that controlled substance prescription forms provided in person be restricted to established customers. The bill would require security printers to obtain photo identification from

the customer and maintain a log of the information, and to report any theft or loss of controlled substance prescription forms to the department via fax or e-mail within 24 hours of the incident. The bill would also require that controlled substance prescription forms be shipped only to the prescriber's address on file and verified with the federal Drug Enforcement Administration or the Medical Board of California. The bill would specify penalties for certain violations, including, among others, failure to comply with security printer guidelines, failure to take reasonable precautions to prevent any dishonest act or illegal activity related to the access and control of security prescription forms, and theft or fraudulent use of a prescriber's identity in order to obtain security prescription forms. By creating new crimes, this bill would impose a state-mandated local program.

Existing law governs the prescription forms for controlled substances. Among other things, the forms are required to include the preprinted name, category of licensure, license number, and federal controlled substance registration number of the prescribing practitioner.

This bill would also require the forms to include the address of the prescribing practitioner. The bill would make an additional change relating to forms ordered for use by prescribers when treating patients in licensed health care facilities or certain clinics that are exempt from other requirements governing these forms. The bill would provide that prescription forms that are not in compliance with these provisions shall not be accepted after July 1, 2012.

The bill would establish a specified process by which a licensed health care practitioner or a pharmacist may obtain approval to access information stored on the Internet regarding the controlled substance history of a patient, as specified.

The bill would require that the theft or loss of prescription forms be reported immediately to the department, as specified. The bill would also require the department to conduct audits of the CURES prescription drug monitoring system and authorize the department to establish a system for issuing citations, and for assessing and imposing administrative fines, not to exceed \$2,500 for each violation, that would be deposited in the CURES Program Special Fund, for violations of the program, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 11161.5 of the Health and Safety Code is amended to read:

11161.5. (a) Prescription forms for controlled substance prescriptions shall be obtained from security printers approved by the Department of Justice.

(b) The department may approve security printer applications after the applicant has provided the following information:

(1) Name, address, and telephone number of the applicant.

(2) Policies and procedures of the applicant for verifying the identity of the prescriber ordering controlled substance prescription forms.

(3) Policies and procedures of the applicant for verifying delivery of controlled substance prescription forms to prescribers.

(4) (A) The location, names, and titles of the applicant's agent for service of process in this state; all principal corporate officers, if any; all managing general partners, if any; and any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor of the applicant who has direct access to, or management or control of, controlled substance prescription forms.

(B) A report containing this information shall be made on an annual basis and within 30 days after any change of office, principal corporate officers, managing general partner, or of any person described in subparagraph (A).

(5) (A) A signed statement indicating whether the applicant, any principal corporate officer, any managing general partner, or any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor of the applicant who has direct access to, or management or control of, controlled substance prescription forms, has ever been convicted of, or pled no contest to, a violation of any law of a foreign country, the United States, or any state, or of any local ordinance.

(B) The department shall provide the applicant and any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor of the applicant who has direct access to, or management or control of, controlled substance prescription forms, with the means and direction to provide fingerprints and related information, in a manner specified by the department, for the purpose of completing state, federal, or foreign criminal background checks.

(C) Any applicant described in subdivision (b) shall submit his or her fingerprint images and related information to the department, for the purpose of the department obtaining information as to the existence and nature of a record of state, federal, or foreign level convictions and state, federal, or foreign level arrests for which the department establishes that the applicant was released on bail or on his or her own recognizance pending trial, as described in subdivision (l) of Section 11105 of the Penal Code. Requests for federal level criminal offender record information received by the department pursuant to this section shall be forwarded to the Federal Bureau of Investigation by the department.

(D) The department shall assess against each security printer applicant a fee determined by the department to be sufficient to cover all processing, maintenance, and investigative costs generated from or associated with completing state, federal, or foreign background checks and inspections of

security printers pursuant to this section with respect to that applicant; the fee shall be paid by the applicant at the time he or she submits the security printer application, fingerprints, and related information to the department.

(E) The department shall retain fingerprint impressions and related information for subsequent arrest notification pursuant to Section 11105.2 of the Penal Code for all applicants.

(c) The department may, within 60 calendar days of receipt of the application from the applicant, deny the security printer application.

(d) The department may deny a security printer application on any of the following grounds:

(1) The applicant, any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor for the applicant, who has direct access, management, or control of controlled substance prescription forms, has been convicted of a crime. A conviction within the meaning of this paragraph means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) The applicant committed any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself, herself, or another, or substantially injure another.

(3) The applicant committed any act that would constitute a violation of this division.

(4) The applicant knowingly made a false statement of fact required to be revealed in the application to produce controlled substance prescription forms.

(5) The department determines that the applicant failed to demonstrate adequate security procedures relating to the production and distribution of controlled substance prescription forms.

(6) The department determines that the applicant has submitted an incomplete application.

(7) As a condition for its approval as a security printer, an applicant shall authorize the Department of Justice to make any examination of the books and records of the applicant, or to visit and inspect the applicant during business hours, to the extent deemed necessary by the board or department to properly enforce this section.

(e) An approved applicant shall submit an exemplar of a controlled substance prescription form, with all security features, to the Department of Justice within 30 days of initial production.

(f) The department shall maintain a list of approved security printers and the department shall make this information available to prescribers and other appropriate government agencies, including the Board of Pharmacy.

(g) Before printing any controlled substance prescription forms, a security printer shall verify with the appropriate licensing board that the prescriber

possesses a license and current prescribing privileges which permits the prescribing of controlled substances with the federal Drug Enforcement Administration (DEA).

(h) Controlled substance prescription forms shall be provided directly to the prescriber either in person, by certified mail, or by a means that requires a signature signifying receipt of the package and provision of that signature to the security printer. Controlled substance prescription forms provided in person shall be restricted to established customers. Security printers shall obtain a photo identification from the customer and maintain a log of this information. Controlled substance prescription forms shall be shipped only to the prescriber's address on file and verified with the federal Drug Enforcement Administration or the Medical Board of California.

(i) Security printers shall retain ordering and delivery records in a readily retrievable manner for individual prescribers for three years.

(j) Security printers shall produce ordering and delivery records upon request by an authorized officer of the law as defined in Section 4017 of the Business and Professions Code.

(k) Security printers shall report any theft or loss of controlled substance prescription forms to the Department of Justice via fax or e-mail within 24 hours of the theft or loss.

(l) (1) The department shall impose restrictions, sanctions, or penalties, subject to subdivisions (m) and (n), against security printers who are not in compliance with this division pursuant to regulations implemented pursuant to this division and shall revoke its approval of a security printer for a violation of this division or action that would permit a denial pursuant to subdivision (d) of this section.

(2) When the department revokes its approval, it shall notify the appropriate licensing boards and remove the security printer from the list of approved security printers.

(m) The following violations by security printers shall be punishable pursuant to subdivision (n):

(1) Failure to comply with the Security Printer Guidelines established by the Security Printer Program as a condition of approval.

(2) Failure to take reasonable precautions to prevent any dishonest act or illegal activity related to the access and control of security prescription forms.

(3) Theft or fraudulent use of a prescriber's identity in order to obtain security prescription forms.

(n) A security printer approved pursuant to subdivision (b) shall be subject to the following penalties for actions leading to the denial of a security printer application specified in subdivision (d) or for a violation specified in subdivision (m):

(1) For a first violation, a fine not to exceed one thousand dollars (\$1,000).

(2) For a second or subsequent violation, a fine not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(3) For a third or subsequent violation, a filing of an administrative disciplinary action seeking to suspend or revoke security printer approval.

SEC. 2. Section 11162.1 of the Health and Safety Code is amended to read:

11162.1. (a) The prescription forms for controlled substances shall be printed with the following features:

(1) A latent, repetitive “void” pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word “void” shall appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words “California Security Prescription.”

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermochromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form so that the prescriber may indicate the quantity by checking the applicable box where the following quantities shall appear:

1–24

25–49

50–74

75–100

101–150

151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(8) Prescription blanks shall contain a statement printed on the bottom of the prescription blank that the “Prescription is void if the number of drugs prescribed is not noted.”

(9) The preprinted name, category of licensure, license number, federal controlled substance registration number, and address of the prescribing practitioner.

(10) Check boxes shall be printed on the form so that the prescriber may indicate the number of refills ordered.

(11) The date of origin of the prescription.

(12) A check box indicating the prescriber’s order not to substitute.

(13) An identifying number assigned to the approved security printer by the Department of Justice.

(14) (A) A check box by the name of each prescriber when a prescription form lists multiple prescribers.

(B) Each prescriber who signs the prescription form shall identify himself or herself as the prescriber by checking the box by his or her name.

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

(c) (1) A prescriber designated by a licensed health care facility, a clinic specified in Section 1200, or a clinic specified in subdivision (a) of Section 1206 that has 25 or more physicians or surgeons may order controlled substance prescription forms for use by prescribers when treating patients in that facility without the information required in paragraph (9) of subdivision (a) or paragraph (3) of this subdivision.

(2) Forms ordered pursuant to this subdivision shall have the name, category of licensure, license number, and federal controlled substance registration number of the designated prescriber and the name, address, category of licensure, and license number of the licensed health care facility the clinic specified in Section 1200, or the clinic specified in Section 1206 that has 25 or more physicians or surgeons preprinted on the form. Licensed health care facilities or clinics exempt under Section 1206 are not required to preprint the category of licensure and license number of their facility or clinic.

(3) Forms ordered pursuant to this section shall not be valid prescriptions without the name, category of licensure, license number, and federal controlled substance registration number of the prescriber on the form.

(4) (A) Except as provided in subparagraph (B), the designated prescriber shall maintain a record of the prescribers to whom the controlled substance prescription forms are issued, that shall include the name, category of licensure, license number, federal controlled substance registration number, and quantity of controlled substance prescription forms issued to each prescriber. The record shall be maintained in the health facility for three years.

(B) Forms ordered pursuant to this subdivision that are printed by a computerized prescription generation system shall not be subject to subparagraph (A) or paragraph (7) of subdivision (a). Forms printed pursuant to this subdivision that are printed by a computerized prescription generation system may contain the prescriber's name, category of professional licensure, license number, federal controlled substance registration number, and the date of the prescription.

(d) This section shall become operative on January 1, 2012. Prescription forms not in compliance with this division shall not be valid or accepted after July 1, 2012.

SEC. 3. Section 11165 of the Health and Safety Code is amended to read:

11165. (a) To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, and the Osteopathic

Medical Board of California Contingent Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and Internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

(b) The reporting of Schedule III and Schedule IV controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds from the Department of Justice. The department may seek and use grant funds to pay the costs incurred from the reporting of controlled substance prescriptions to CURES. Funds shall not be appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, the Naturopathic Doctor's Fund, or the Osteopathic Medical Board of California Contingent Fund to pay the costs of reporting Schedule III and Schedule IV controlled substance prescriptions to CURES.

(c) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party.

(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy or clinic shall provide the following information to the Department of Justice on a weekly basis and in a format specified by the Department of Justice:

(1) Full name, address, and the telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

(2) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, and federal controlled substance registration number.

(4) NDC (National Drug Code) number of the controlled substance dispensed.

- (5) Quantity of the controlled substance dispensed.
- (6) ICD-9 (diagnosis code), if available.
- (7) Number of refills ordered.
- (8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.
- (9) Date of origin of the prescription.
- (10) Date of dispensing of the prescription.
- (e) This section shall become operative on January 1, 2005.

SEC. 4. Section 11165.1 of the Health and Safety Code is amended to read:

11165.1. (a) (1) A licensed health care practitioner eligible to prescribe Schedule II, Schedule III, or Schedule IV controlled substances or a pharmacist may provide a notarized application developed by the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient maintained within the Department of Justice, and the department may release to that practitioner or pharmacist, the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP).

(A) An application may be denied, or a subscriber may be suspended, for reasons which include, but are not limited to, the following:

- (i) Materially falsifying an application for a subscriber.
- (ii) Failure to maintain effective controls for access to the patient activity report.
- (iii) Suspended or revoked federal Drug Enforcement Administration (DEA) registration.
- (iv) Any subscriber who is arrested for a violation of law governing controlled substances or any other law for which the possession or use of a controlled substance is an element of the crime.
- (v) Any subscriber accessing information for any other reason than caring for his or her patients.

(B) Any authorized subscriber shall notify the Department of Justice within 10 days of any changes to the subscriber account.

(2) To allow sufficient time for licensed health care practitioners eligible to prescribe Schedule II, Schedule III, or Schedule IV controlled substances and a pharmacist to apply and receive access to PDMP, a written request may be made, until July 1, 2012, and the Department of Justice may release to that practitioner or pharmacist the history of controlled substances dispensed to an individual under his or her care based on data contained in CURES.

(b) Any request for, or release of, a controlled substance history pursuant to this section shall be made in accordance with guidelines developed by the Department of Justice.

(c) In order to prevent the inappropriate, improper, or illegal use of Schedule II, Schedule III, or Schedule IV controlled substances, the Department of Justice may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES

to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

(d) The history of controlled substances dispensed to an individual based on data contained in CURES that is received by a practitioner or pharmacist from the Department of Justice pursuant to this section shall be considered medical information subject to the provisions of the Confidentiality of Medical Information Act contained in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(e) Information concerning a patient's controlled substance history provided to a prescriber or pharmacist pursuant to this section shall include prescriptions for controlled substances listed in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code of Federal Regulations.

SEC. 5. Section 11165.2 is added to the Health and Safety Code, to read:

11165.2. (a) The Department of Justice may conduct audits of the CURES Prescription Drug Monitoring Program system and its users.

(b) The Department of Justice may establish, by regulation, a system for the issuance to a CURES Prescription Drug Monitoring Program subscriber of a citation which may contain an order of abatement, or an order to pay an administrative fine assessed by the Department of Justice if the subscriber is in violation of any provision of this chapter or any regulation adopted by the Department of Justice pursuant to this chapter.

(c) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law or regulation of the department determined to have been violated.

(2) Whenever appropriate, the citation shall contain an order of abatement establishing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the department exceed two thousand five hundred dollars (\$2,500) for each violation. In assessing a fine, due consideration shall be given to the appropriateness of the amount of the fine with respect to such factors as the gravity of the violation, the good faith of the subscribers, and the history of previous violations.

(4) An order of abatement or a fine assessment issued pursuant to a citation shall inform the subscriber that if the subscriber desires a hearing to contest the finding of a violation, a hearing shall be requested by written notice to the CURES Prescription Drug Monitoring Program within 30 days of the date of issuance of the citation or assessment. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) In addition to requesting a hearing, the subscriber may, within 10 days after service of the citation, request in writing an opportunity for an informal conference with the department regarding the citation. At the conclusion of the informal conference, the department may affirm, modify, or dismiss the citation, including any fine levied or order of abatement issued. The decision shall be deemed to be a final order with regard to the citation issued, including the fine levied or the order of abatement which

could include permanent suspension to the system, a monetary fine, or both, depending on the gravity of the violation. However, the subscriber does not waive its right to request a hearing to contest a citation by requesting an informal conference. If the citation is affirmed, a formal hearing may be requested within 30 days of the date the citation was affirmed. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for a subsequent citation, it shall be requested within 30 days of service of that subsequent citation.

(6) Failure of a subscriber to pay a fine within 30 days of the date of assessment or comply with an order of abatement within the fixed time, unless the citation is being appealed, may result in disciplinary action taken by the department. If a citation is not contested and a fine is not paid, the subscriber account will be terminated:

(A) A citation may be issued without the assessment of an administrative fine.

(B) Assessment of administrative fines may be limited to only particular violations of law or department regulations.

(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as a satisfactory resolution of the matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the CURES Program Special Fund, available upon appropriation by the Legislature. These special funds shall provide support for costs associated with informal and formal hearings, maintenance, and updates to the CURES Prescription Drug Monitoring Program.

(f) The sanctions authorized under this section shall be separate from, and in addition to, any other administrative, civil, or criminal remedies; however, a criminal action may not be initiated for a specific offense if a citation has been issued pursuant to this section for that offense, and a citation may not be issued pursuant to this section for a specific offense if a criminal action for that offense has been filed.

(g) Nothing in this section shall be deemed to prevent the department from serving and prosecuting an accusation to suspend or revoke a subscriber if grounds for that suspension or revocation exist.

SEC. 6. Section 11165.3 is added to the Health and Safety Code, to read:

11165.3. The theft or loss of prescription forms shall be reported immediately by the security printer or affected prescriber to the CURES Prescription Drug Monitoring Program, but no later than three days after the discovery of the theft or loss. This notification may be done in writing utilizing the Bureau of Narcotic Enforcement 1175 Reporting Theft/Loss Form or may be reported by the authorized subscriber through the CURES Prescription Drug Monitoring Program.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

Senate Bill No. 850

Passed the Senate September 8, 2011

Secretary of the Senate

Passed the Assembly September 7, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 56.101 of the Civil Code, relating to medical records.

LEGISLATIVE COUNSEL'S DIGEST

SB 850, Leno. Medical records: confidential information.

The Confidentiality of Medical Information Act requires that every provider of health care, health care service plan, pharmaceutical company, and contractor who creates, maintains, preserves, stores, abandons, destroys, or disposes of medical records do so in a manner that preserves the confidentiality of the information contained in the record, and provides that negligence in conducting these activities may result in damages or an administrative fine or civil penalty, as specified.

This bill would require an electronic health or medical record system to automatically record and preserve any change or deletion of electronically stored medical information, and would require the record to include, among other things, the identity of the person who accessed and changed the medical information and the change that was made to the medical information.

The people of the State of California do enact as follows:

SECTION 1. Section 56.101 of the Civil Code is amended to read:

56.101. (a) Every provider of health care, health care service plan, pharmaceutical company, or contractor who creates, maintains, preserves, stores, abandons, destroys, or disposes of medical information shall do so in a manner that preserves the confidentiality of the information contained therein. Any provider of health care, health care service plan, pharmaceutical company, or contractor who negligently creates, maintains, preserves, stores, abandons, destroys, or disposes of medical information shall be subject to the remedies and penalties provided under subdivisions (b) and (c) of Section 56.36.

(b) (1) An electronic health record system or electronic medical record system shall do the following:

(A) Protect and preserve the integrity of electronic medical information.

(B) Automatically record and preserve any change or deletion of any electronically stored medical information. The record of any change or deletion shall include the identity of the person who accessed and changed the medical information, the date and time the medical information was accessed, and the change that was made to the medical information.

(2) A patient's right to access or receive a copy of his or her electronic medical records upon request shall be consistent with applicable state and federal laws governing patient access to, and the use and disclosures of, medical information.

(c) This section shall apply to an "electronic medical record" or "electronic health record" that meets the definition of "electronic health record," as that term is defined in Section 17921(5) of Title 42 of the United States Code.

Approved _____, 2011

Governor

Attachment 4

Senate Bill No. 541

CHAPTER 339

An act to add Section 40 to the Business and Professions Code, relating to professions and vocations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 2011. Filed with
Secretary of State September 26, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 541, Price. Regulatory boards: expert consultants.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Existing law, the Osteopathic Act, requires the Osteopathic Medical Board of California to regulate osteopathic physicians and surgeons. Existing law generally requires applicants for a license to pass an examination and authorizes boards to take disciplinary action against licensees for violations of law. Existing law establishes standards relating to personal service contracts in state employment.

This bill would authorize these boards to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts described above, to provide enforcement and examination assistance. The bill would require each board to establish policies and procedures for the selection and use of these consultants.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 40 is added to the Business and Professions Code, to read:

40. (a) Subject to the standards described in Section 19130 of the Government Code, any board, as defined in Section 22, the State Board of Chiropractic Examiners, or the Osteopathic Medical Board of California may enter into an agreement with an expert consultant to do any of the following:

- (1) Provide an expert opinion on enforcement-related matters, including providing testimony at an administrative hearing.
- (2) Assist the board as a subject matter expert in examination development, examination validation, or occupational analyses.

(3) Evaluate the mental or physical health of a licensee or an applicant for a license as may be necessary to protect the public health and safety.

(b) An executed contract between a board and an expert consultant shall be exempt from the provisions of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(c) Each board shall establish policies and procedures for the selection and use of expert consultants.

(d) Nothing in this section shall be construed to expand the scope of practice of an expert consultant providing services pursuant to this section.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To ensure that licensees engaging in certain professions and vocations are adequately regulated at the earliest possible time in order to protect and safeguard consumers and the public in this state, it is necessary that this act take effect immediately.

Attachment 5

AMENDED IN ASSEMBLY MARCH 30, 2011

AMENDED IN ASSEMBLY MARCH 15, 2011

AMENDED IN ASSEMBLY MARCH 7, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 389

Introduced by Assembly Member Mitchell
(Principal coauthor: Senator Pavley)

February 14, 2011

~~An act to amend Section 2191 of the Business and Professions Code;~~
~~and~~ *An act* to add Article 5 (commencing with Section 125286.10) to
Chapter 2 of Part 5 of Division 106 of the Health and Safety Code,
relating to genetic diseases.

LEGISLATIVE COUNSEL'S DIGEST

AB 389, as amended, Mitchell. Bleeding disorders.

Existing law, the Holden-Moscone-Garamendi Genetically Handicapped Person's Program, requires the Director of Health Care Services to establish and administer a program for the medical care of persons with genetically handicapping conditions, including hemophilia.

This bill would impose specified requirements on providers of blood clotting products for home use, as described, whose products are used for the treatment and prevention of symptoms associated with bleeding disorders, including all forms of hemophilia. This bill would require the California State Board of Pharmacy to administer and enforce these provisions.

~~Existing law requires the Division of Licensing of the Medical Board of California to establish continuing education requirements for physicians and surgeons.~~

This bill would require the division to consider including a course on bleeding disorders, as specified, in determining its continuing education requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 2191 of the Business and Professions~~
2 ~~Code is amended to read:~~
3 ~~2191. (a) In determining its continuing education requirements,~~
4 ~~the Division of Licensing shall consider including a course in~~
5 ~~human sexuality as defined in Section 2090 and nutrition to be~~
6 ~~taken by those licensees whose practices may require knowledge~~
7 ~~in those areas.~~
8 ~~(b) The division shall consider including a course in child abuse~~
9 ~~detection and treatment to be taken by those licensees whose~~
10 ~~practices are of a nature that there is a likelihood of contact with~~
11 ~~abused or neglected children.~~
12 ~~(c) The division shall consider including a course in acupuncture~~
13 ~~to be taken by those licensees whose practices may require~~
14 ~~knowledge in the area of acupuncture and whose education has~~
15 ~~not included instruction in acupuncture.~~
16 ~~(d) The division shall encourage every physician and surgeon~~
17 ~~to take nutrition as part of his or her continuing education,~~
18 ~~particularly a physician and surgeon involved in primary care.~~
19 ~~(e) The division shall consider including a course in elder abuse~~
20 ~~detection and treatment to be taken by those licensees whose~~
21 ~~practices are of a nature that there is a likelihood of contact with~~
22 ~~abused or neglected persons 65 years of age and older.~~
23 ~~(f) In determining its continuing education requirements, the~~
24 ~~division shall consider including a course in the early detection~~
25 ~~and treatment of substance abusing pregnant women to be taken~~
26 ~~by those licensees whose practices are of a nature that there is a~~
27 ~~likelihood of contact with these women.~~
28 ~~(g) In determining its continuing education requirements, the~~
29 ~~division shall consider including a course in the special care needs~~
30 ~~of drug addicted infants to be taken by those licensees whose~~
31 ~~practices are of a nature that there is a likelihood of contact with~~
32 ~~these infants.~~

1 ~~(h) In determining its continuing education requirements, the~~
2 ~~division shall consider including a course providing training and~~
3 ~~guidelines on how to routinely screen for signs exhibited by abused~~
4 ~~women, particularly for physicians and surgeons in emergency,~~
5 ~~surgical, primary care, pediatric, prenatal, and mental health~~
6 ~~settings. In the event the division establishes a requirement for~~
7 ~~continuing education coursework in spousal or partner abuse~~
8 ~~detection or treatment, that requirement shall be met by each~~
9 ~~licensee within no more than four years from the date the~~
10 ~~requirement is imposed.~~

11 ~~(i) In determining its continuing education requirements, the~~
12 ~~division shall consider including a course in the special care needs~~
13 ~~of individuals and their families facing end-of-life issues, including,~~
14 ~~but not limited to, all of the following:~~

15 ~~(1) Pain and symptom management.~~

16 ~~(2) The psychosocial dynamics of death.~~

17 ~~(3) Dying and bereavement.~~

18 ~~(4) Hospice care.~~

19 ~~(j) In determining its continuation education requirements, the~~
20 ~~division shall give its highest priority to considering a course on~~
21 ~~pain management.~~

22 ~~(k) In determining its continuing education requirements, the~~
23 ~~division shall consider including a course on bleeding disorders,~~
24 ~~with particular emphasis on von Willebrand disease using the latest~~
25 ~~treatment guidelines adopted by the National Heart, Lung, and~~
26 ~~Blood Institute.~~

27 ~~SEC. 2.~~

28 *SECTION 1.* Article 5 (commencing with Section 125286.10)
29 is added to Chapter 2 of Part 5 of Division 106 of the Health and
30 Safety Code, to read:

31
32 Article 5. Standards of Service for Providers of Blood Clotting
33 Products for Home Use Act
34

35 125286.10. This article shall be known, and may be cited, as
36 the Standards of Service for Providers of Blood Clotting Products
37 for Home Use Act.

38 125286.15. The Legislature hereby finds and declares all of
39 the following:

1 (a) Hemophilia is a rare, hereditary, bleeding disorder affecting
2 at least 4,000 persons in California and is a chronic, lifelong, and
3 incurable, but treatable, disease.

4 (b) Von Willebrand disease is a human bleeding disorder caused
5 by a hereditary deficiency or abnormality of the von Willebrand
6 factor in human blood, which is a protein that helps clot blood.
7 Von Willebrand disease is a chronic, lifelong, incurable, but
8 treatable, disease affecting at least 360,000 Californians.

9 (c) Until the 1970s, people with severe hemophilia suffered
10 from uncontrollable internal bleeding, crippling orthopedic
11 deformities, and a shortened lifespan. More recently, the production
12 of highly purified blood clotting factors has provided people with
13 hemophilia and other bleeding disorders the opportunity to lead
14 normal lives, free of pain and crippling arthritis.

15 (d) The preferred method of treatment of hemophilia today is
16 intravenous injection, or infusion, of prescription blood clotting
17 products several times per week, along with case management and
18 specialized medical care at a federally designated regional
19 hemophilia treatment center.

20 (e) Pharmacies and other entities specializing in the delivery of
21 blood clotting products and related equipment, supplies, and
22 services for home use form a growing enterprise in California.

23 (f) Timely access to federally designated regional hemophilia
24 centers and appropriate products and services in the home,
25 including infusion of blood clotting products and related
26 equipment, and supplies and services for persons with hemophilia
27 and other bleeding disorders, reduces mortality and bleeding-related
28 hospitalizations according to the federal Centers for Disease
29 Control and Prevention and the Medical and Scientific Advisory
30 Council of the National Hemophilia Foundation.

31 (g) Eligible persons with hemophilia or other bleeding disorders
32 may receive treatment through the Genetically Handicapped
33 Persons Program, the California Children's Services Program, and
34 the Medi-Cal program.

35 (h) For the benefit of persons with hemophilia or other bleeding
36 disorders, the purposes of this article are to do the following:

37 (1) Establish standards of service for entities that deliver blood
38 clotting products and related equipment, supplies, and services for
39 home use.

1 (2) Promote access to a full range of essential, cost-effective,
2 lifesaving, blood clotting products and related equipment, supplies,
3 and high-quality services for home use for persons with hemophilia
4 and other bleeding disorders.

5 125286.20. Unless the context otherwise requires, the following
6 definitions shall apply for purposes of this article:

7 (a) "Assay" means the amount of a particular constituent of a
8 mixture or of the biological or pharmacological potency of a drug.

9 (b) "Ancillary infusion equipment and supplies" means the
10 equipment and supplies required to infuse a blood clotting product
11 into a human vein, including, but not limited to, syringes, needles,
12 sterile gauze, field pads, gloves, alcohol swabs, numbing creams,
13 tourniquets, medical tape, sharps or equivalent biohazard waste
14 containers, and cold compression packs.

15 (c) "Bleeding disorder" means a medical condition characterized
16 by a deficiency or absence of one or more essential blood clotting
17 proteins in the human blood, often called "factors," including all
18 forms of hemophilia and other bleeding disorders that, without
19 treatment, result in uncontrollable bleeding or abnormal blood
20 clotting.

21 (d) "Blood clotting product" means an intravenously
22 administered medicine manufactured from human plasma or
23 recombinant biotechnology techniques, approved for distribution
24 by the federal Food and Drug Administration, that is used for the
25 treatment and prevention of symptoms associated with bleeding
26 disorders. Blood clotting products include, but are not limited to,
27 Factor VII, Factor VIIa, Factor VIII, and Factor IX products, von
28 Willebrand Factor products, bypass products for patients with
29 inhibitors, and activated prothrombin complex concentrates.

30 (e) "Emergency" means care as defined in Section 1317.1.

31 (f) "Hemophilia" means a human bleeding disorder caused by
32 a hereditary deficiency of the Factors I, II, V, VIII, IX, XI, XII,
33 or XIII blood clotting protein in human blood.

34 (g) "Hemophilia treatment center" means a facility for the
35 treatment of bleeding disorders, including, but not limited to,
36 hemophilia, that receives funding specifically for the treatment of
37 patients with bleeding disorders from federal government sources,
38 including, but not limited to, the federal Centers for Disease
39 Control and Prevention and the federal Health Resources and

1 Services Administration (HRSA) of the United States Department
2 of Health and Human Services.

3 (h) “Home nursing services” means specialized nursing care
4 provided in the home setting to assist a patient in the reconstitution
5 and administration of blood clotting products.

6 (i) “Home use” means infusion or other use of a blood clotting
7 product in a place other than a state-recognized hemophilia
8 treatment center or other clinical setting. Places where home use
9 occurs include, without limitation, a home or other nonclinical
10 setting.

11 (j) “Patient” means a person needing a blood clotting product
12 for home use.

13 (k) (1) “Provider of blood clotting products for home use”
14 means all the following pharmacies, except as described in Section
15 125286.35, that dispense blood clotting factors for home use:

16 (A) Hospital pharmacies.

17 (B) Health system pharmacies.

18 (C) Pharmacies affiliated with hemophilia treatment centers.

19 (D) Specialty home care pharmacies.

20 (E) Retail pharmacies.

21 (2) The providers described in this subdivision may also provide
22 home nursing services for persons with bleeding disorders.

23 (3) The providers described in this subdivision shall include a
24 health care service plan and all its affiliated providers if the health
25 care service plan exclusively contracts with a single medical group
26 in a specified geographic area to provide professional services to
27 its enrollees.

28 125286.25. Each provider of blood clotting products for home
29 use shall meet all of the following requirements:

30 (a) Have sufficient knowledge and understanding of bleeding
31 disorders to accurately follow the instructions of the prescribing
32 physician and ensure high-quality service for the patient and the
33 medical and psychosocial management thereof, including, but not
34 limited to, home therapy.

35 (b) Have access to a provider with sufficient clinical experience
36 providing services to persons with bleeding disorders that enables
37 the provider to know when patients have an appropriate supply of
38 clotting factor on hand and about proper storage and refrigeration
39 of clotting factors.

1 (c) Maintain 24-hour on-call service seven days a week for
2 every day of the year, adequately screen telephone calls for
3 emergencies, acknowledge all telephone calls within one hour or
4 less, and have access to knowledgeable pharmacy staffing on call
5 24 hours a day, to initiate emergency requests for clotting factors.

6 (d) Have the ability to obtain all brands of blood clotting
7 products approved by the federal Food and Drug Administration
8 in multiple assay ranges (low, medium, and high, as applicable)
9 and vial sizes, including products manufactured from human
10 plasma and those manufactured with recombinant biotechnology
11 techniques, provided manufacturer supply exists and payer
12 authorization is obtained.

13 (e) Supply all necessary ancillary infusion equipment and
14 supplies with each prescription, as needed.

15 (f) Store and ship, or otherwise deliver, all blood clotting
16 products in conformity with all state and federally mandated
17 standards, including, but not limited to, the standards set forth in
18 the product's approved package insert (PI).

19 (g) When home nursing services are necessary, as determined
20 by the treating physician, provide these services either directly or
21 through a qualified third party with experience in treating bleeding
22 disorders and coordinate pharmacy services with the third party
23 when one is used to provide home nursing services.

24 (h) Upon receiving approved authorization for a nonemergency
25 prescription, provided manufacturer supply exists, ship the
26 prescribed blood clotting products and ancillary infusion equipment
27 and supplies to the patient within two business days or less for
28 established and new patients.

29 (i) Upon receiving approved authorization to dispense a
30 prescription for an emergency situation, provided manufacturer
31 supply exists, deliver prescribed blood products, ancillary infusion
32 equipment and supplies, medications, and home nursing services
33 to the patient within 12 hours for patients living within 100 miles
34 of a major metropolitan airport, and within one day for patients
35 living more than 100 miles from a major metropolitan airport.

36 (j) Provide patients who have ordered their products with a
37 designated contact telephone number for reporting problems with
38 a delivery and respond to these calls within a reasonable time
39 period.

1 (k) Provide patients with notification of Class 1 and Class 2
2 recalls and withdrawals of blood clotting products and ancillary
3 infusion equipment within 24 hours of the provider of blood
4 clotting products for home use receiving notification and participate
5 in the National Patient Notification System for blood clotting
6 product recalls.

7 (l) Provide language interpretive services over the telephone or
8 in person, as needed by the patient.

9 (m) Have a detailed plan for meeting the requirements of this
10 article in the event of a natural or manmade disaster or other
11 disruption of normal business operations.

12 (n) Provide appropriate and necessary recordkeeping and
13 documentation as required by state and federal law and retain
14 copies of the patient's prescriptions.

15 (o) Comply with the privacy and confidentiality requirements
16 of the federal Health Insurance Portability and Accountability Act
17 of 1996 (HIPAA).

18 125286.30. The California State Board of Pharmacy shall
19 administer and enforce this article.

20 125286.35. Nothing in this article shall apply to either hospital
21 pharmacies or health system pharmacies that dispense blood
22 clotting products due only to emergency, urgent care, or inpatient
23 encounters, or if an inpatient is discharged with a supply of blood
24 clotting products for home use.

Assembly Bill No. 604

CHAPTER 744

An act to amend, repeal, and add Sections 121349, 121349.1, 121349.2, and 121349.3 of the Health and Safety Code, relating to public health.

[Approved by Governor October 9, 2011. Filed with
Secretary of State October 9, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 604, Skinner. Needle exchange programs.

Existing law, with certain exceptions, makes it a misdemeanor for a person to deliver, furnish, or transfer, or possess with intent to deliver, furnish, or transfer drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to introduce into the human body a controlled substance. Existing law provides an exception to this general rule by authorizing a city, county, or city and county to conduct a clean needle and syringe exchange project authorized by the public entity to combat the spread of HIV and bloodborne hepatitis. Existing law exempts providers participating in an exchange project from criminal prosecution for possession of needles or syringes during participation in the project. Existing law also provides a specified annual comment and reporting process relating to the needle and syringe exchange projects.

This bill would, until January 1, 2019, authorize the State Department of Public Health to authorize, as specified, certain entities to provide hypodermic needle and syringe exchange services in any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling infections that are spread through the sharing of used hypodermic needles and syringes. The bill would, until January 1, 2019, require the department to establish and maintain on its Internet Web site the address and contact information of these programs.

This bill would, until January 1, 2019, exempt staff and volunteers participating in an authorized exchange project from criminal prosecution for violation of any law related to the possession, furnishing, or transfer of hypodermic needles or syringes during participation in an exchange project and would exempt program participants from criminal prosecution for possession of needles and syringes acquired from an authorized exchange project entity. The bill would also, until January 1, 2019, make the comment and reporting process for the projects biennial.

This bill would make additional technical and nonsubstantive changes.

The people of the State of California do enact as follows:

SECTION 1. Section 121349 of the Health and Safety Code is amended to read:

121349. (a) The Legislature finds and declares that scientific data from needle exchange programs in the United States and in Europe have shown that the exchange of used hypodermic needles and syringes for clean hypodermic needles and syringes does not increase drug use in the population, can serve as an important bridge to treatment and recovery from drug abuse, and can curtail the spread of human immunodeficiency virus (HIV) infection among the intravenous drug user population.

(b) In order to reduce the spread of HIV infection and bloodborne hepatitis among the intravenous drug user population within California, the Legislature hereby authorizes a clean needle and syringe exchange project pursuant to this chapter in any city, county, or city and county upon the action of a county board of supervisors and the local health officer or health commission of that county, or upon the action of the city council, the mayor, and the local health officer of a city with a health department, or upon the action of the city council and the mayor of a city without a health department.

(c) In order to reduce the spread of HIV infection, viral hepatitis, and other potentially deadly bloodborne infections, the State Department of Public Health may, notwithstanding any other law, authorize entities that provide services set forth in paragraph (1) of subdivision (d), and that have sufficient staff and capacity to provide the services described in Section 121349.1, as determined by the department, to apply for authorization under this chapter to provide hypodermic needle and syringe exchange services consistent with state standards in any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling infections that are spread through the sharing of used hypodermic needles and syringes. Authorization shall be made after consultation with the local health officer and local law enforcement leadership, and after a period of public comment, as described in subdivision (e). In making the determination, the department shall balance the concerns of law enforcement with the public health benefits. The authorization shall not be for more than two years. Before the end of the two-year period, the department may reauthorize the program in consultation with the local health officer and local law enforcement leadership.

(d) In order for an entity to be authorized to conduct a project pursuant to this chapter, its application to the department shall demonstrate that the entity complies with all of the following minimum standards:

(1) The entity provides, directly or through referral, all of the following services:

- (A) Drug abuse treatment services.
- (B) HIV or hepatitis screening.
- (C) Hepatitis A and hepatitis B vaccination.
- (D) Screening for sexually transmitted infections.

(E) Housing services for the homeless, for victims of domestic violence, or other similar housing services.

(F) Services related to provision of education and materials for the reduction of sexual risk behaviors, including, but not limited to, the distribution of condoms.

(2) The entity has the capacity to commence needle and syringe exchange services within three months of authorization.

(3) The entity has adequate funding to do all of the following at reasonably projected program participation levels:

(A) Provide needles and syringe exchange services for all of its participants.

(B) Provide HIV and viral hepatitis prevention education services for all of its participants.

(C) Provide for the safe recovery and disposal of used syringes and sharps waste from all of its participants.

(4) The entity has the capacity, and an established plan, to collect evaluative data in order to assess program impact, including, but not limited to, all of the following:

(A) The total number of persons served.

(B) The total number of syringes and needles distributed, recovered, and disposed of.

(C) The total numbers and types of referrals to drug treatment and other services.

(e) If the application is provisionally deemed appropriate by the department, the department shall, at least 90 days prior to approval of the application, provide for a period of public comment as follows:

(1) Post on the department's Internet Web site the name of the applicant, the nature of the services, and the location where the applying entity will provide the services.

(2) Send a written and an e-mail notice to the local health officer of the affected jurisdiction.

(3) Send a written and an e-mail notice to the chief of police, the sheriff, or both, as appropriate, of the jurisdictions in which the program will operate.

(f) The department shall establish and maintain on its Internet Web site the address and contact information of programs providing hypodermic needle and syringe exchange services pursuant to this chapter.

(g) The authorization provided under this section shall only be for a clean needle and syringe exchange project as described in Section 121349.1.

(h) This section shall become inoperative on January 1, 2019, and as of that date is repealed.

SEC. 1.5. Section 121349 is added to the Health and Safety Code, to read:

121349. (a) The Legislature finds and declares that scientific data from needle exchange programs in the United States and in Europe have shown that the exchange of used hypodermic needles and syringes for clean hypodermic needles and syringes does not increase drug use in the population, can serve as an important bridge to treatment and recovery from

drug abuse, and can curtail the spread of human immunodeficiency virus (HIV) infection among the intravenous drug user population.

(b) In order to reduce the spread of HIV infection and bloodborne hepatitis among the intravenous drug user population within California, the Legislature hereby authorizes a clean needle and syringe exchange project pursuant to this chapter in any city, county, or city and county upon the action of a county board of supervisors and the local health officer or health commission of that county, or upon the action of the city council, the mayor, and the local health officer of a city with a health department, or upon the action of the city council and the mayor of a city without a health department.

(c) The authorization provided under this section shall only be for a clean needle and syringe exchange project as described in Section 121349.1.

(d) This section shall become operative on January 1, 2019.

SEC. 2. Section 121349.1 of the Health and Safety Code is amended to read:

121349.1. (a) The State Department of Public Health or a city, county, or a city and county with or without a health department, that acts to authorize a clean needle and syringe exchange project pursuant to this chapter shall, in consultation with the State Department of Public Health, authorize the exchange of clean hypodermic needles and syringes, as recommended by the United States Secretary of Health and Human Services, subject to the availability of funding, as part of a network of comprehensive services, including treatment services, to combat the spread of HIV and bloodborne hepatitis infection among injection drug users. Staff and volunteers participating in an exchange project authorized by the state, county, city, or city and county pursuant to this chapter shall not be subject to criminal prosecution for violation of any law related to the possession, furnishing, or transfer of hypodermic needles or syringes during participation in an exchange project. Program participants shall not be subject to criminal prosecution for possession of needles or syringes acquired from an authorized needle and syringe exchange project entity.

(b) This section shall become inoperative on January 1, 2019, and as of that date is repealed

SEC. 2.5. Section 121349.1 is added to the Health and Safety Code, to read:

121349.1. (a) A city, county, or a city and county, with or without a health department, that acts to authorize a clean needle and syringe exchange project pursuant to this chapter shall, in consultation with the State Department of Public Health, authorize the exchange of clean hypodermic needles and syringes, as recommended by the United States Public Health Service, subject to the availability of funding, as part of a network of comprehensive services, including treatment services, to combat the spread of HIV and bloodborne hepatitis infection among injection drug users. Providers participating in an exchange project authorized by the county, city, or city and county pursuant to this chapter shall not be subject to criminal prosecution for possession of needles or syringes during participation in an exchange project.

(b) This section shall become operative on January 1, 2019.

SEC. 3. Section 121349.2 of the Health and Safety Code is amended to read:

121349.2. (a) Local government, local health officials, and law enforcement shall be given the opportunity to comment on clean needle and syringe exchange programs on a biennial basis. The public shall be given the opportunity to provide input to local leaders to ensure that any potential adverse impacts on the public welfare of clean needle and syringe exchange programs are addressed and mitigated.

(b) This section shall become inoperative on January 1, 2019, and as of that date is repealed.

SEC. 3.5. Section 121349.2 is added to the Health and Safety Code, to read:

121349.2. (a) Local government, local public health officials, and law enforcement shall be given the opportunity to comment on clean needle and syringe exchange programs on an annual basis. The public shall be given the opportunity to provide input to local leaders to ensure that any potential adverse impacts on the public welfare from clean needle and syringe exchange programs are addressed and mitigated.

(b) This section shall become operative on January 1, 2019.

SEC. 4. Section 121349.3 of the Health and Safety Code is amended to read:

121349.3. (a) The health officer of the participating jurisdiction shall present biennially at an open meeting of the board of supervisors or city council a report detailing the status of clean needle and syringe exchange programs, including, but not limited to, relevant statistics on bloodborne infections associated with needle sharing activity and the use of public funds for these programs. Law enforcement, administrators of alcohol and drug treatment programs, other stakeholders, and the public shall be afforded ample opportunity to comment at this biennial meeting. The notice to the public shall be sufficient to ensure adequate participation in the meeting by the public. This meeting shall be noticed in accordance with all state and local open meeting laws and ordinances, and as local officials deem appropriate. For hypodermic needle and syringe exchange services authorized by the State Department of Public Health, a biennial report shall be provided by the department to the local health officer based on the reports to the department from service providers within the jurisdiction of that local health officer.

(b) This section shall become inoperative on January 1, 2019, and as of that date is repealed.

SEC. 5. Section 121349.3 is added to the Health and Safety Code, to read:

121349.3. (a) The health officer of the participating jurisdiction shall present, annually at an open meeting of the board of supervisors or city council, a report detailing the status of clean needle and syringe exchange programs, including, but not limited to, relevant statistics on bloodborne infections associated with needle sharing activity and the use of public funds

for these programs. Law enforcement, administrators of alcohol and drug treatment programs, other stakeholders, and the public shall be afforded ample opportunity to comment at this annual meeting. The notice to the public shall be sufficient to ensure adequate participation in the meeting by the public. This meeting shall be noticed in accordance with all state and local open meeting laws and ordinances, and as local officials deem appropriate.

(b) This section shall become operative on January 1, 2019.

Senate Bill No. 41

CHAPTER 738

An act to amend Sections 4144, 4145, and 4148 of, to add Section 4149.5 to, to add and repeal Sections 4144.5, 4145.5, and 4148.5 of, and to repeal Section 4140 of, the Business and Professions Code, and to amend Section 11364 of, to add Section 121281 to, and to add and repeal Section 11364.1 of, the Health and Safety Code, relating to public health.

[Approved by Governor October 9, 2011. Filed with
Secretary of State October 9, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 41, Yee. Hypodermic needles and syringes.

Existing law regulates the sale, possession, and disposal of hypodermic needles and syringes, and requires, with certain exceptions, a prescription to purchase a hypodermic needle or syringe for human use. Existing law prohibits any person from possessing or having under his or her control any hypodermic needle or syringe, except in accordance with those regulatory provisions.

This bill would delete the prohibition against any person possessing or having under his or her control any hypodermic needle or syringe, except in accordance with the aforementioned regulatory provisions.

Existing law, beginning January 1, 2011, and ending December 31, 2018, authorizes a county or city to authorize a licensed pharmacist to sell or furnish 10 or fewer hypodermic needles or syringes to a person 18 years of age or older for human use without a prescription if the pharmacist works for a pharmacy that is registered with a local health department in the Disease Prevention Demonstration Project, established by law to evaluate the long-term desirability of allowing licensed pharmacies to sell or furnish nonprescription hypodermic needles or syringes to prevent the spread of bloodborne pathogens, including HIV and hepatitis C.

Under existing law, it is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking specified controlled substances.

Existing law, beginning January 1, 2011, and ending December 31, 2018, provides that the above-described provisions, pursuant to authorization from a city or county, shall not apply to the possession solely for personal use of 10 or fewer hypodermic needles or syringes.

This bill would, until January 1, 2015, make these provisions, including any local authorization, but not including the Disease Prevention Demonstration Project, inoperative, and would, in the interim, authorize a physician or pharmacist, without a prescription or a permit, to furnish 30 or fewer hypodermic needles and syringes for human use to a person 18

years of age or older and would authorize a person 18 years of age or older, without a prescription or license, to obtain 30 or fewer hypodermic needles and syringes solely for personal use from a physician or pharmacist.

This bill would, until January 1, 2015, provide that the above-described provisions making it unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia for unlawfully injecting or smoking certain controlled substances shall not apply to possession solely for personal use of 30 or fewer hypodermic needles or syringes if acquired from a physician, pharmacist, hypodermic needle and syringe exchange program, or any other source that is authorized by law to provide sterile syringes or hypodermic needles without a prescription.

This bill would require the state Office of AIDS to develop and maintain information on its Internet Web site to educate consumers at risk of bloodborne infections of opportunities to improve and protect their health, and to protect the public health and would also require the California State Board of Pharmacy to post, or post a link to, this information on its Internet Web site.

The Pharmacy Law authorizes a pharmacist to provide hypodermic needles and syringes without a prescription in specified circumstances. Existing law makes it a crime to knowingly violate any provision relating to the Pharmacy Law.

This bill would, until January 1, 2015, require pharmacies that furnish nonprescription hypodermic needles and syringes to store the hypodermic needles and syringes in a manner that ensures that they are not accessible to unauthorized persons, and would require pharmacies or hypodermic needle and syringe exchange programs to provide consumers with prescribed options for consumer disposal of hypodermic needles and syringes. This bill would also, until January 1, 2015, require the pharmacies to provide prescribed written information or verbal counseling at the time of furnishing or sale of nonprescription hypodermic needles or syringes. By changing the definition of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to improve access to syringes and hypodermic needles so as to remove significant barriers for persons seeking to protect their health and the health of other persons, and to remove barriers for programs or businesses to provide sterile injection equipment and education to adults, thereby reducing the spread of communicable diseases and protecting the public health.

SEC. 2. Section 4140 of the Business and Professions Code is repealed.

SEC. 3. Section 4144 of the Business and Professions Code is amended to read:

4144. (a) A person may sell or obtain hypodermic needles and hypodermic syringes without a prescription or permit, for uses that the board determines are industrial, and that person shall not be required to comply with Section 4145 or 4146.

(b) This section shall be inoperative until January 1, 2015.

SEC. 4. Section 4144.5 is added to the Business and Professions Code, to read:

4144.5. (a) A person may sell or obtain hypodermic needles and hypodermic syringes without a prescription or permit, for uses that the board determines are industrial, and that person shall not be required to comply with Section 4145.5 or 4146.

(b) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 5. Section 4145 of the Business and Professions Code is amended to read:

4145. (a) Notwithstanding any other provision of law, a pharmacist or physician may, without a prescription or a permit, furnish hypodermic needles and syringes for human use, and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist or physician for human use, if one of the following requirements is met:

(1) The person is known to the furnisher and the furnisher has previously been provided a prescription or other proof of a legitimate medical need requiring a hypodermic needle or syringe to administer a medicine or treatment.

(2) Pursuant to authorization by a county, with respect to all of the territory within the county, or a city, with respect to the territory within the city, for the period commencing January 1, 2005, and ending December 31, 2018, a pharmacist may furnish or sell 10 or fewer hypodermic needles or syringes at any one time to a person 18 years of age or older if the pharmacist works for a pharmacy that is registered with the Disease Prevention Demonstration Project pursuant to Chapter 13.5 (commencing with Section 121285) of Part 4 of Division 105 of the Health and Safety Code and the pharmacy complies with the provisions of that chapter.

(b) Notwithstanding any other provision of law, a pharmacist, veterinarian, or person licensed pursuant to Section 4141 may, without a prescription or license, furnish hypodermic needles and syringes for use on animals, and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist, veterinarian, or person licensed pursuant to Section 4141 for use on animals, providing that no needle or syringe shall be furnished to a person who is unknown to the furnisher and unable to properly establish his or her identity.

(c) This section shall be inoperative until January 1, 2015.

SEC. 6. Section 4145.5 is added to the Business and Professions Code, to read:

4145.5. (a) Notwithstanding any other provision of law, a pharmacist or physician may, without a prescription or a permit, furnish hypodermic needles and syringes for human use, and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist or physician for human use, if the person is known to the furnisher and the furnisher has previously been provided a prescription or other proof of a legitimate medical need requiring a hypodermic needle or syringe to administer a medicine or treatment.

(b) Notwithstanding any other provision of law, as a public health measure intended to prevent the transmission of HIV, viral hepatitis, and other bloodborne diseases among persons who use syringes and hypodermic needles, and to prevent subsequent infection of sexual partners, newborn children, or other persons, a physician or pharmacist may, without a prescription or a permit, furnish 30 or fewer hypodermic needles and syringes for human use to a person 18 years of age or older, and a person 18 years of age or older may, without a prescription or license, obtain 30 or fewer hypodermic needles and syringes solely for personal use from a physician or pharmacist.

(c) Notwithstanding any other provision of law, a pharmacist, veterinarian, or person licensed pursuant to Section 4141 may, without a prescription or license, furnish hypodermic needles and syringes for use on animals, and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist, veterinarian, or person licensed pursuant to Section 4141 for use on animals, providing that no needle or syringe shall be furnished to a person who is unknown to the furnisher and unable to properly establish his or her identity.

(d) A pharmacy that furnishes nonprescription hypodermic needles and syringes shall store hypodermic needles and syringes in a manner that ensures that they are available only to authorized personnel, and are not accessible to other persons.

(e) In order to provide for the safe disposal of hypodermic needles and syringes, a pharmacy or hypodermic needle and syringe exchange program that furnishes nonprescription hypodermic needles and syringes shall provide consumers with one or more of the following disposal options:

(1) It shall establish an onsite, safe, hypodermic needle and syringe collection and disposal program that meets applicable state and federal standards for collection and disposal of medical sharps waste.

(2) It shall furnish, or make available, mail-back sharps containers authorized by the United States Postal Service that meet applicable state and federal requirements for the transport of medical sharps waste, and shall provide tracking forms to verify destruction at a certified disposal facility.

(3) It shall furnish, or make available, a sharps container that meets applicable state and federal standards for collection and disposal of medical sharps waste.

(f) A pharmacy that furnishes nonprescription syringes shall provide written information or verbal counseling to consumers at the time of furnishing or sale of nonprescription hypodermic needles or syringes on how to do the following:

- (1) Access drug treatment.
- (2) Access testing and treatment for HIV and hepatitis C.
- (3) Safely dispose of sharps waste.

(g) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 7. Section 4148 of the Business and Professions Code is amended to read:

4148. (a) All stocks of hypodermic needles or syringes shall be confiscated if found outside the licensed premises of any person holding a permit under Section 4141 and found not in the possession or under the control of a person entitled to an exemption under Section 4143, 4144, or 4145.

(b) This section shall be inoperative until January 1, 2015.

SEC. 8. Section 4148.5 is added to the Business and Professions Code, to read:

4148.5. (a) All stocks of hypodermic needles or syringes shall be confiscated if found outside the licensed premises of any person holding a permit under Section 4141 and found not in the possession or under the control of a person entitled to an exemption under Section 4143, 4144, or 4145.5, or under Section 11364.5, 121349, or 121349.1 of the Health and Safety Code.

(b) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 9. Section 4149.5 is added to the Business and Professions Code, to read:

4149.5. (a) Local authorizations related to Sections 4144, 4145, and 4148 of this code and Sections 11364 and 121285 of the Health and Safety Code shall be inoperative until January 1, 2015.

(b) Local authorizations related to Sections 4144, 4145, and 4148 of this code and Sections 11364 and 121285 of the Health and Safety Code shall again become operative on January 1, 2015, unless the city, county, or city and county acts to remove the authorization.

SEC. 10. Section 11364 of the Health and Safety Code is amended to read:

11364. (a) It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of

subdivision (d) of Section 11055, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V.

(b) This section shall not apply to hypodermic needles or syringes that have been containerized for safe disposal in a container that meets state and federal standards for disposal of sharps waste.

(c) Pursuant to authorization by a county, with respect to all of the territory within the county, or a city, with respect to the territory within in the city, for the period commencing January 1, 2005, and ending December 31, 2018, subdivision (a) shall not apply to the possession solely for personal use of 10 or fewer hypodermic needles or syringes if acquired from an authorized source.

(d) This section shall be inoperative until January 1, 2015.

SEC. 11. Section 11364.1 is added to the Health and Safety Code, to read:

11364.1. (a) It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of subdivision (d) of Section 11055, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V.

(b) This section shall not apply to hypodermic needles or syringes that have been containerized for safe disposal in a container that meets state and federal standards for disposal of sharps waste.

(c) As a public health measure intended to prevent the transmission of HIV, viral hepatitis, and other bloodborne diseases among persons who use syringes and hypodermic needles, and to prevent subsequent infection of sexual partners, newborn children, or other persons, this section shall not apply to the possession solely for personal use of 30 or fewer hypodermic needles or syringes if acquired from a physician, pharmacist, hypodermic needle and syringe exchange program, or any other source that is authorized by law to provide sterile syringes or hypodermic needles without a prescription.

(d) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 12. Section 121281 is added to the Health and Safety Code, to read:

121281. In order to assist pharmacists and pharmacy personnel in the education of consumers who are at risk of bloodborne infections regarding methods and opportunities for improving and protecting their health, and thereby protect the public health, the Office of AIDS shall develop and maintain all of the following information, on its Internet Web site, and the California State Board of Pharmacy shall also post, or maintain a link to, the information on its Internet Web site:

(a) How consumers can access testing and treatment for HIV and viral hepatitis.

(b) How consumers can safely dispose of syringes and hypodermic needles or other sharps waste.

(c) How consumers can access drug treatment.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Senate Bill No. 514

CHAPTER 199

An act to add Sections 11110 and 11111 to the Health and Safety Code, relating to nonprescription drugs.

[Approved by Governor August 31, 2011. Filed with
Secretary of State August 31, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 514, Simitian. Dextromethorphan: sale to minors prohibited.

Existing law prohibits a manufacturer, wholesaler, retailer, or other person from selling, transferring, or otherwise furnishing a specified substance, including ephedrine and pseudoephedrine, to a person under 18 years of age, except as specified. A first violation of this provision is a misdemeanor. Existing law further regulates the sale of nonprescription drugs, as specified.

This bill would, in addition, make it an infraction, punishable by a fine not exceeding \$250, for any person, corporation, or retail distributor, in an over-the-counter sale to, without a prescription, to willfully and knowingly supply, deliver, or give possession of a nonprescription drug containing dextromethorphan to a person under 18 years of age. The bill would provide that proof that bona fide evidence of majority and identity was demanded and shown shall be a defense to any criminal prosecution.

The bill would further provide that a retail clerk who fails to require and obtain proof of age from the purchaser shall not be guilty of an infraction or subject to any civil penalties, unless the retail clerk is a willful participant in an ongoing criminal conspiracy to violate the provisions prohibiting the sale of dextromethorphan to minors. By creating new crimes, this bill would impose a state-mandated local program.

The bill would require a person, corporation, or retail distributor that sells a product containing dextromethorphan to use a cash register that is equipped with an age-verification feature that directs the retail clerk to request identification before the product may be purchased, as provided.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 11110 is added to the Health and Safety Code, to read:

11110. (a) It shall be an infraction, punishable by a fine not exceeding two hundred fifty dollars (\$250), for any person, corporation, or retail distributor to willfully and knowingly supply, deliver, or give possession of a drug, material, compound, mixture, preparation, or substance containing any quantity of dextromethorphan (the dextrorotatory isomer of 3-methoxy-N-methylmorphinan, including its salts, but not including its racemic or levorotatory forms) to a person under 18 years of age in an over-the-counter sale without a prescription.

(b) It shall be prima facie evidence of a violation of this section if the person, corporation, or retail distributor making the sale does not require and obtain bona fide evidence of majority and identity from the purchaser, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be 25 years of age or older.

(c) Proof that a person, corporation, or retail distributor, or his or her agent or employee, demanded, was shown, and acted in reasonable reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this section. As used in this section, "bona fide evidence of majority and identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, California state identification card, identification card issued to a member of the Armed Forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(d) (1) Notwithstanding any other provision of this section, a retail clerk who fails to require and obtain proof of age from the purchaser shall not be guilty of an infraction pursuant to subdivision (a) or subject to any civil penalties.

(2) This subdivision shall not apply to a retail clerk who is a willful participant in an ongoing criminal conspiracy to violate this section.

SEC. 2. Section 11111 is added to the Health and Safety Code, to read:

11111. A person, corporation, or retail distributor that sells or makes available products containing dextromethorphan, as defined in subdivision (a) of Section 11110, in an over-the-counter sale without a prescription shall, if feasible, use a cash register that is equipped with an age-verification feature to monitor age-restricted items. The cash register shall be programmed to direct the retail clerk making the sale to request bona fide evidence of majority and identity, as described in subdivision (c) of Section 11110, before a product containing dextromethorphan may be purchased.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime

within the meaning of Section 6 of Article XIII B of the California Constitution.

O

Assembly Bill No. 1424

CHAPTER 455

An act to amend Sections 31 and 476 of, and to add Section 494.5 to, the Business and Professions Code, to add Section 12419.13 to the Government Code, to add Section 10295.4 to the Public Contract Code, to amend Sections 7063, 19195, and 19533 of, to add Sections 6835, 7057, 7057.5, 19377.5, 19571, and 19572 to, to add Article 9 (commencing with Section 6850) to Chapter 6 of Part 1 of Division 2 of, and to add Article 7 (commencing with Section 19291) to Chapter 5 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, and to add Section 34623.1 to the Vehicle Code, relating to taxation.

[Approved by Governor October 4, 2011. Filed with
Secretary of State October 4, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1424, Perea. Franchise Tax Board: delinquent tax debt.

The Personal Income Tax Law and the Corporation Tax Law impose taxes on, or measured by, income. Existing law requires the Franchise Tax Board to make available as a matter of public record each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, and requires the list to include specified information with respect to each delinquency. Existing law requires every board, as defined, and the Department of Insurance, upon request of the Franchise Tax Board, to furnish to the Franchise Tax Board certain information with respect to every licensee.

This bill would require the State Board of Equalization, quarterly, and the Franchise Tax Board, at least twice each calendar year, to make available a list of the 500 largest tax delinquencies described above. This bill would require the Franchise Tax Board to include additional information on the list with respect to each delinquency, including the type, status, and license number of any occupational or professional license held by the person or persons liable for payment of the tax and the names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation. This bill would require a person whose delinquency appeared on either list and whose name has been removed, as provided, to comply with the terms of the arranged resolution, and would authorize the State Board of Equalization and the Franchise Tax Board, if the person fails to comply with the terms of the arranged resolution, to add the person's name to the list without providing prior written notice, as provided.

This bill would require a state governmental licensing entity, other than the Department of Motor Vehicles, State Bar of California, and Alcoholic Beverage Control Board, as provided, that issues professional or occupational

licenses, certificates, registrations, or permits, to suspend, revoke, and refuse to issue a license if the licensee's name is included on either list of the 500 largest tax delinquencies described above. This bill would not include the Contractors' State License Board in the definition of "state governmental licensing entity." This bill would also require those licensing entities to collect the social security number or federal taxpayer identification number of each individual applicant of that entity for the purpose of matching those applicants to the names on the lists of the 500 largest tax delinquencies, and would require each application for a new license or renewal of a license to indicate on the application that the law allows the State Board of Equalization and the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay his or her state tax obligation and that his or her license may be suspended if the state tax obligation is not paid. This bill would also authorize the State Board of Equalization and the Franchise Tax Board to disclose to state governmental licensing entities identifying information, as defined, of persons on the list of the 500 largest tax delinquencies, as specified. This bill would authorize a motor carrier permit of a licensee whose name is on the certified list of tax delinquencies to be suspended, as provided. The bill would require the State Board of Equalization and the Franchise Tax Board to meet certain requirements and would make related changes.

The bill would provide that the release or other use of information received by a state governmental licensing entity pursuant to these provisions, except as authorized, is punishable as a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

This bill would also prohibit a state agency from entering into any contract for the acquisition of goods or services with a contractor whose name appears on either list of the 500 largest tax delinquencies described above.

Existing law authorizes the Franchise Tax Board to collect specified amounts for the Department of Industrial Relations and specified amounts imposed by a court pursuant to specified procedures.

This bill would authorize the State Board of Equalization and the Franchise Tax Board to enter into an agreement to collect any delinquent tax debt due to the Internal Revenue Service or any other state imposing an income tax, or a tax measured by income, or a sales or use tax, or a similar tax, pursuant to specified procedures, provided that the Internal Revenue Service or that state has entered into an agreement to collect delinquent tax debts due to the State Board of Equalization or the Franchise Tax Board, and the agreements do not cause the net displacement of civil service employees, as specified. This bill would require the Controller, upon execution of a reciprocal agreement between the State Board of Equalization, the Franchise Tax Board, and any other state imposing a sales and use tax, a tax similar to a sales and use tax, an income tax, or tax measured by income, to offset any delinquent tax debt due to that other state from a person or entity, against any refund under the Sales and Use Tax Law, the Personal Income Tax Law, or the Corporation Tax Law owed to that person or entity, as provided.

Existing law requires, in the event that the debtor has more than one debt being collected by the Franchise Tax Board and the amount collected is insufficient to satisfy the total amount owed, the amount collected to be applied to specified priorities.

This bill would include specified tax delinquencies collected pursuant to this bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 31 of the Business and Professions Code is amended to read:

31. (a) As used in this section, “board” means any entity listed in Section 101, the entities referred to in Sections 1000 and 3600, the State Bar, the Department of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(b) Each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by a board who is not in compliance with a judgment or order for support shall be subject to Section 17520 of the Family Code.

(c) “Compliance with a judgment or order for support” has the meaning given in paragraph (4) of subdivision (a) of Section 17520 of the Family Code.

(d) Each licensee or applicant whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code shall be subject to Section 494.5.

(e) Each application for a new license or renewal of a license shall indicate on the application that the law allows the State Board of Equalization and the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay his or her state tax obligation and that his or her license may be suspended if the state tax obligation is not paid.

(f) For purposes of this section, “tax obligation” means the tax imposed under, or in accordance with, Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), Part 1.7 (commencing with Section 7280), Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

SEC. 2. Section 476 of the Business and Professions Code is amended to read:

476. (a) Except as provided in subdivision (b), nothing in this division shall apply to the licensure or registration of persons pursuant to Chapter 4

(commencing with Section 6000) of Division 3, or pursuant to Division 9 (commencing with Section 23000) or pursuant to Chapter 5 (commencing with Section 19800) of Division 8.

(b) Section 494.5 shall apply to the licensure of persons authorized to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3, and the licensure or registration of persons pursuant to Chapter 5 (commencing with Section 19800) of Division 8 or pursuant to Division 9 (commencing with Section 23000).

SEC. 3. Section 494.5 is added to the Business and Professions Code, to read:

494.5. (a) (1) Except as provided in paragraphs (2), (3), and (4), a state governmental licensing entity shall refuse to issue, reactivate, reinstate, or renew a license and shall suspend a license if a licensee's name is included on a certified list.

(2) The Department of Motor Vehicles shall suspend a license if a licensee's name is included on a certified list. Any reference in this section to the issuance, reactivation, reinstatement, renewal, or denial of a license shall not apply to the Department of Motor Vehicles.

(3) The State Bar of California may recommend to refuse to issue, reactivate, reinstate, or renew a license and may recommend to suspend a license if a licensee's name is included on a certified list. The word "may" shall be substituted for the word "shall" relating to the issuance of a temporary license, refusal to issue, reactivate, reinstate, renew, or suspend a license in this section for licenses under the jurisdiction of the California Supreme Court.

(4) The Alcoholic Beverage Control Board may refuse to issue, reactivate, reinstate, or renew a license, and may suspend a license, if a licensee's name is included on a certified list.

(b) For purposes of this section:

(1) "Certified list" means either the list provided by the State Board of Equalization or the list provided by the Franchise Tax Board of persons whose names appear on the lists of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code, as applicable.

(2) "License" includes a certificate, registration, or any other authorization to engage in a profession or occupation issued by a state governmental licensing entity. "License" includes a driver's license issued pursuant to Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code. "License" excludes a vehicle registration issued pursuant to Division 3 (commencing with Section 4000) of the Vehicle Code.

(3) "Licensee" means an individual authorized by a license to drive a motor vehicle or authorized by a license, certificate, registration, or other authorization to engage in a profession or occupation issued by a state governmental licensing entity.

(4) "State governmental licensing entity" means any entity listed in Section 101, 1000, or 19420, the office of the Attorney General, the Department of Insurance, the Department of Motor Vehicles, the State Bar of California, the Department of Real Estate, and any other state agency,

board, or commission that issues a license, certificate, or registration authorizing an individual to engage in a profession or occupation, including any certificate, business or occupational license, or permit or license issued by the Department of Motor Vehicles or the Department of the California Highway Patrol. “State governmental licensing entity” shall not include the Contractors’ State License Board.

(c) The State Board of Equalization and the Franchise Tax Board shall each submit its respective certified list to every state governmental licensing entity. The certified lists shall include the name, social security number or taxpayer identification number, and the last known address of the persons identified on the certified lists.

(d) Notwithstanding any other law, each state governmental licensing entity shall collect the social security number or the federal taxpayer identification number from all applicants for the purposes of matching the names of the certified lists provided by the State Board of Equalization and the Franchise Tax Board to applicants and licensees.

(e) (1) Each state governmental licensing entity shall determine whether an applicant or licensee is on the most recent certified list provided by the State Board of Equalization and the Franchise Tax Board.

(2) If an applicant or licensee is on either of the certified lists, the state governmental licensing entity shall immediately provide a preliminary notice to the applicant or licensee of the entity’s intent to suspend or withhold issuance or renewal of the license. The preliminary notice shall be delivered personally or by mail to the applicant’s or licensee’s last known mailing address on file with the state governmental licensing entity within 30 days of receipt of the certified list. Service by mail shall be completed in accordance with Section 1013 of the Code of Civil Procedure.

(A) The state governmental licensing entity shall issue a temporary license valid for a period of 90 days to any applicant whose name is on a certified list if the applicant is otherwise eligible for a license.

(B) The 90-day time period for a temporary license shall not be extended. Only one temporary license shall be issued during a regular license term and the term of the temporary license shall coincide with the first 90 days of the regular license term. A license for the full term or the remainder of the license term may be issued or renewed only upon compliance with this section.

(C) In the event that a license is suspended or an application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the state governmental licensing entity.

(f) (1) A state governmental licensing entity shall refuse to issue or shall suspend a license pursuant to this section no sooner than 90 days and no later than 120 days of the mailing of the preliminary notice described in paragraph (2) of subdivision (e), unless the state governmental licensing entity has received a release pursuant to subdivision (h). The procedures in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5

(commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial or suspension of, or refusal to renew, a license or the issuance of a temporary license pursuant to this section.

(2) Notwithstanding any other law, if a board, bureau, or commission listed in Section 101, other than the Contractors' State License Board, fails to take action in accordance with this section, the Department of Consumer Affairs shall issue a temporary license or suspend or refuse to issue, reactivate, reinstate, or renew a license, as appropriate.

(g) Notices shall be developed by each state governmental licensing entity. For an applicant or licensee on the State Board of Equalization's certified list, the notice shall include the address and telephone number of the State Board of Equalization, and shall emphasize the necessity of obtaining a release from the State Board of Equalization as a condition for the issuance, renewal, or continued valid status of a license or licenses. For an applicant or licensee on the Franchise Tax Board's certified list, the notice shall include the address and telephone number of the Franchise Tax Board, and shall emphasize the necessity of obtaining a release from the Franchise Tax Board as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) The notice shall inform the applicant that the state governmental licensing entity shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 90 calendar days if the applicant is otherwise eligible and that upon expiration of that time period, the license will be denied unless the state governmental licensing entity has received a release from the State Board of Equalization or the Franchise Tax Board, whichever is applicable.

(2) The notice shall inform the licensee that any license suspended under this section will remain suspended until the state governmental licensing entity receives a release along with applications and fees, if applicable, to reinstate the license.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any moneys paid by the applicant or licensee shall not be refunded by the state governmental licensing entity. The state governmental licensing entity shall also develop a form that the applicant or licensee shall use to request a release by the State Board of Equalization or the Franchise Tax Board. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(h) If the applicant or licensee wishes to challenge the submission of his or her name on a certified list, the applicant or licensee shall make a timely written request for release to the State Board of Equalization or the Franchise Tax Board, whichever is applicable. The State Board of Equalization or the Franchise Tax Board shall immediately send a release to the appropriate state governmental licensing entity and the applicant or licensee, if any of the following conditions are met:

(1) The applicant or licensee has complied with the tax obligation, either by payment of the unpaid taxes or entry into an installment payment agreement, as described in Section 6832 or 19008 of the Revenue and Taxation Code, to satisfy the unpaid taxes.

(2) The applicant or licensee has submitted a request for release not later than 45 days after the applicant's or licensee's receipt of a preliminary notice described in paragraph (2) of subdivision (e), but the State Board of Equalization or the Franchise Tax Board, whichever is applicable, will be unable to complete the release review and send notice of its findings to the applicant or licensee and state governmental licensing entity within 45 days after the State Board of Equalization's or the Franchise Tax Board's receipt of the applicant's or licensee's request for release. Whenever a release is granted under this paragraph, and, notwithstanding that release, the applicable license or licenses have been suspended erroneously, the state governmental licensing entity shall reinstate the applicable licenses with retroactive effect back to the date of the erroneous suspension and that suspension shall not be reflected on any license record.

(3) The applicant or licensee is unable to pay the outstanding tax obligation due to a current financial hardship. "Financial hardship" means financial hardship as determined by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, where the applicant or licensee is unable to pay any part of the outstanding liability and the applicant or licensee is unable to qualify for an installment payment arrangement as provided for by Section 6832 or Section 19008 of the Revenue and Taxation Code. In order to establish the existence of a financial hardship, the applicant or licensee shall submit any information, including information related to reasonable business and personal expenses, requested by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, for purposes of making that determination.

(i) An applicant or licensee is required to act with diligence in responding to notices from the state governmental licensing entity and the State Board of Equalization or the Franchise Tax Board with the recognition that the temporary license will lapse or the license suspension will go into effect after 90 days and that the State Board of Equalization or the Franchise Tax Board must have time to act within that period. An applicant's or licensee's delay in acting, without good cause, which directly results in the inability of the State Board of Equalization or the Franchise Tax Board, whichever is applicable, to complete a review of the applicant's or licensee's request for release shall not constitute the diligence required under this section which would justify the issuance of a release. An applicant or licensee shall have the burden of establishing that he or she diligently responded to notices from the state governmental licensing entity or the State Board of Equalization or the Franchise Tax Board and that any delay was not without good cause.

(j) The State Board of Equalization or the Franchise Tax Board shall create release forms for use pursuant to this section. When the applicant or licensee has complied with the tax obligation by payment of the unpaid

taxes, or entry into an installment payment agreement, or establishing the existence of a current financial hardship as defined in paragraph (3) of subdivision (h), the State Board of Equalization or the Franchise Tax Board, whichever is applicable, shall mail a release form to the applicant or licensee and provide a release to the appropriate state governmental licensing entity. Any state governmental licensing entity that has received a release from the State Board of Equalization and the Franchise Tax Board pursuant to this subdivision shall process the release within five business days of its receipt. If the State Board of Equalization or the Franchise Tax Board determines subsequent to the issuance of a release that the licensee has not complied with their installment payment agreement, the State Board of Equalization or the Franchise Tax Board, whichever is applicable, shall notify the state governmental licensing entity and the licensee in a format prescribed by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, that the licensee is not in compliance and the release shall be rescinded. The State Board of Equalization and the Franchise Tax Board may, when it is economically feasible for the state governmental licensing entity to develop an automated process for complying with this subdivision, notify the state governmental licensing entity in a manner prescribed by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, that the licensee has not complied with the installment payment agreement. Upon receipt of this notice, the state governmental licensing entity shall immediately notify the licensee on a form prescribed by the state governmental licensing entity that the licensee's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The licensee shall be further notified that the license will remain suspended until a new release is issued in accordance with this subdivision.

(k) The State Board of Equalization and the Franchise Tax Board may enter into interagency agreements with the state governmental licensing entities necessary to implement this section.

(l) Notwithstanding any other law, a state governmental licensing entity, with the approval of the appropriate department director or governing body, may impose a fee on a licensee whose license has been suspended pursuant to this section. The fee shall not exceed the amount necessary for the state governmental licensing entity to cover its costs in carrying out the provisions of this section. Fees imposed pursuant to this section shall be deposited in the fund in which other fees imposed by the state governmental licensing entity are deposited and shall be available to that entity upon appropriation in the annual Budget Act.

(m) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section.

(n) Any state governmental licensing entity receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or who has been granted a temporary license under this section shall respond that the license was denied or suspended

or the temporary license was issued only because the licensee appeared on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). Any state governmental licensing entity that discloses on its Internet Web site or other publication that the licensee has had a license denied or suspended under this section or has been granted a temporary license under this section shall prominently disclose, in bold and adjacent to the information regarding the status of the license, that the only reason the license was denied, suspended, or temporarily issued is because the licensee failed to pay taxes.

(o) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(p) The State Board of Equalization, the Franchise Tax Board, and state governmental licensing entities, as appropriate, shall adopt regulations as necessary to implement this section.

(q) (1) Neither the state governmental licensing entity, nor any officer, employee, or agent, or former officer, employee, or agent of a state governmental licensing entity, may disclose or use any information obtained from the State Board of Equalization or the Franchise Tax Board, pursuant to this section, except to inform the public of the denial, refusal to renew, or suspension of a license or the issuance of a temporary license pursuant to this section. The release or other use of information received by a state governmental licensing entity pursuant to this section, except as authorized by this section, is punishable as a misdemeanor. This subdivision may not be interpreted to prevent the State Bar of California from filing a request with the Supreme Court of California to suspend a member of the bar pursuant to this section.

(2) A suspension of, or refusal to renew, a license or issuance of a temporary license pursuant to this section does not constitute denial or discipline of a licensee for purposes of any reporting requirements to the National Practitioner Data Bank and shall not be reported to the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank.

(3) Upon release from the certified list, the suspension or revocation of the applicant's or licensee's license shall be purged from the state governmental licensing entity's Internet Web site or other publication within three business days. This paragraph shall not apply to the State Bar of California.

(r) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other

provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(s) All rights to review afforded by this section to an applicant shall also be afforded to a licensee.

(t) Unless otherwise provided in this section, the policies, practices, and procedures of a state governmental licensing entity with respect to license suspensions under this section shall be the same as those applicable with respect to suspensions pursuant to Section 17520 of the Family Code.

(u) No provision of this section shall be interpreted to allow a court to review and prevent the collection of taxes prior to the payment of those taxes in violation of the California Constitution.

(v) This section shall apply to any licensee whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code on or after July 1, 2012.

SEC. 4. Section 12419.13 is added to the Government Code, to read:

12419.13. (a) (1) The Controller shall, upon execution of a reciprocal agreement between the State Board of Equalization or the Franchise Tax Board, and any other state imposing a sales and use tax, an income tax, or tax measured by income, offset any delinquent tax debt due to that other state from a person or entity, against any refund under the Sales and Use Tax Law, the Personal Income Tax Law, or the Corporation Tax Law owed to that person or entity.

(2) Standards and procedures for submission of requests for offsets shall be as prescribed by the Controller.

(3) Payment of the offset amount shall occur only after other offset requests for debts owed by a person or entity to this state or the federal government have been satisfied in accordance with the priority established under Section 12419.3.

(b) The reciprocal agreement identified in subdivision (a) shall prescribe the manner in which the administrative costs of the Controller, the State Board of Equalization, and the Franchise Tax Board shall be reimbursed.

SEC. 5. Section 10295.4 is added to the Public Contract Code, to read:

10295.4. (a) Notwithstanding any other law, a state agency shall not enter into any contract for the acquisition of goods or services with a contractor whose name appears on either list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code. Any contract entered into in violation of this subdivision is void and unenforceable.

(b) This section shall apply to any contract executed on or after July 1, 2012.

SEC. 6. Section 6835 is added to the Revenue and Taxation Code, to read:

6835. (a) The board may enter into an agreement with the Internal Revenue Service or any other state imposing a sales and use tax, or a similar tax, for the purpose of collecting delinquent tax debts with respect to amounts assessed or imposed under this part, provided the agreements do not cause

the net displacement of civil service employees. The agreement may provide, at the discretion of the board, the rate of payment and the manner in which compensation for services shall be paid.

(b) At the discretion of the board, the Internal Revenue Service or the other state collecting the tax debt pursuant to subdivision (a) may, as part of the collection process, refer the tax debt for litigation by its legal representatives in the name of the board.

(c) For purposes of this section, “displacement” includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions. “Displacement” does not include changes in shifts or days off, nor does it include reassignment to any other position within the same class and general location.

SEC. 7. Article 9 (commencing with Section 6850) is added to Chapter 6 of Part 1 of Division 2 of the Revenue and Taxation Code, to read:

Article 9. Collection of Tax Debts Due to the Internal Revenue Services
or Other States

6850. (a) The board may enter into an agreement to collect any delinquent tax debt due to the Internal Revenue Service or any other state imposing a sales and use tax, or similar tax, if, pursuant to Section 6835, the Internal Revenue Service or such a state has entered into an agreement to collect delinquent tax debts due to the board.

(b) Upon written notice to the debtor from the board, any amount referred to the board under subdivision (a) shall be treated as final and due and payable to the State of California, and shall be collected from the debtor by the board in any manner authorized under the law for collection of a delinquent sales and use tax liability, including, but not limited to, the recording of a notice of state tax lien under Article 2 (commencing with Section 7170) of Chapter 14 of Division 7 of Title 1 of the Government Code, and the issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.

(c) This part shall apply to amounts referred under this section in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this section, except to the extent that any provision is either inconsistent with this section or is not relevant to this section.

(d) The activities required to implement and administer this section shall not interfere with the primary mission of the board to administer this part.

(e) In no event shall a collection under this section be construed as a payment of sales and use taxes imposed under this part, or in accordance with Part 1.5 (commencing with Section 7200), or Part 1.6 (commencing with Section 7251), of Division 2.

SEC. 8. Section 7057 is added to the Revenue and Taxation Code, to read:

7057. (a) The board may disclose to state governmental licensing entities identifying information of persons appearing on the list of the 500 largest tax delinquencies pursuant to Section 7063 for purposes of administering Section 494.5 of the Business and Professions Code. “Identifying information” means the name, social security number or taxpayer identification number, and the last known address of the persons appearing on the list of the 500 largest tax delinquencies.

(b) Neither the state governmental licensing entity, nor any officer, employee, or agent, or former officer, employee, or agent of a state governmental licensing entity, may disclose or use any information obtained from the board pursuant to this section, except to administer Section 494.5 of the Business and Professions Code or to inform the public of the denial, refusal to renew, or suspension of a license or the issuance of a temporary license pursuant to Section 494.5 of the Business and Professions Code.

(c) For purposes of this section, state governmental licensing entity means a state governmental licensing entity as defined in Section 494.5 of the Business and Professions Code.

SEC. 9. Section 7057.5 is added to the Revenue and Taxation Code, to read:

7057.5. (a) The board may disclose to state agencies identifying information of persons appearing on the list of the 500 largest tax delinquencies pursuant to Section 7063 for purposes of administering Section 10295.4 of the Public Contract Code. “Identifying information” means the name, social security number or taxpayer identification number, and the last known address of the persons appearing on the list of the 500 largest tax delinquencies.

(b) A state agency, and any officer, employee, or agent, or former officer, employee, or agent of a state agency, shall not disclose or use any information obtained from the board, pursuant to this section, except to administer Section 10295.4 of the Public Contract Code.

SEC. 10. Section 7063 of the Revenue and Taxation Code is amended to read:

7063. (a) Notwithstanding any other provision of law, the board shall make available as a matter of public record each quarter a list of the 500 largest tax delinquencies in excess of one hundred thousand dollars (\$100,000) under this part. For purposes of compiling the list, a tax delinquency means an amount owed to the board which is all of the following:

(1) Based on a determination made under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511) of Chapter 5 deemed final pursuant to Article 5 (commencing with Section 6561) of Chapter 5, or that is “due and payable” under Article 4 (commencing with Section 6536) of Chapter 5, or self-assessed by the taxpayer.

(2) Recorded as a notice of state tax lien pursuant to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code, in any county recorder's office in this state.

(3) For an amount of tax delinquent for more than 90 days.

(b) For purposes of the list, a tax delinquency does not include any of the following and may not be included on the list:

(1) A delinquency that is under litigation in a court of law.

(2) A delinquency for which payment arrangements have been agreed to by both the taxpayer and the board and the taxpayer is in compliance with the arrangement.

(3) A delinquency for which the taxpayer has filed for bankruptcy protection pursuant to Title 11 of the United States Code.

(c) Each quarterly list shall, with respect to each delinquency, include all the following:

(1) The name of the person or persons liable for payment of the tax and that person's or persons' last known address.

(2) The amount of tax delinquency as shown on the notice or notices of state tax lien and any applicable interest or penalties, less any amounts paid.

(3) The earliest date that a notice of state tax lien was filed.

(4) The type of tax that is delinquent.

(d) Prior to making a tax delinquency a matter of public record as required by this section, the board shall provide a preliminary written notice to the person or persons liable for the tax by certified mail, return receipt requested. If within 30 days after issuance of the notice, the person or persons do not remit the amount due or make arrangements with the board for payment of the amount due, the tax delinquency shall be included on the list.

(e) The quarterly list described in subdivision (a) shall include the following:

(1) The telephone number and address of the board office to contact if a person believes placement of his or her name on the list is in error.

(2) The aggregate number of persons that have appeared on the list who have satisfied their delinquencies in their entirety and the dollar amounts, in the aggregate, that have been paid attributable to those delinquencies.

(f) As promptly as feasible, but no later than 5 business days from the occurrence of any of the following, the board shall remove that taxpayer's name from the list of tax delinquencies:

(1) Tax delinquencies for which the person liable for the tax has contacted the board and resolution of the delinquency has been arranged.

(2) Tax delinquencies for which the board has verified that an active bankruptcy proceeding has been initiated.

(3) Tax delinquencies for which the board has verified that a bankruptcy proceeding has been completed and there are no assets available with which to pay the delinquent amount or amounts.

(4) Tax delinquencies that the board has determined to be uncollectible.

(g) A person whose delinquency appears on the quarterly list, and who satisfies that delinquency in whole or in part, may request the board to include in its quarterly list any payments that person made to satisfy the

delinquency. Upon receipt of that request, the board shall include those payments on the list as promptly as feasible.

(h) Notwithstanding subdivision (a), a person whose delinquency appeared on the quarterly list and whose name has been removed pursuant to paragraph (1) of subdivision (f) shall comply with the terms of the arranged resolution. If a person fails to do so, the board shall add that person's name to the list of delinquencies without providing the prior written notice required by subdivision (d).

SEC. 11. Section 19195 of the Revenue and Taxation Code is amended to read:

19195. (a) Notwithstanding any other provision of law, including Section 6254.21 of the Government Code, the Franchise Tax Board shall make available as a matter of public record at least twice each calendar year a list of the 500 largest tax delinquencies in excess of one hundred thousand dollars (\$100,000) under Part 10 and Part 11 of this division. For purposes of compiling the list, a tax delinquency means the total amount owed by a taxpayer to the State of California for which a notice of state tax lien has been recorded in any county recorder's office in this state, pursuant to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For purposes of the list, a tax delinquency does not include any of the following and may not be included on the list:

(1) A delinquency for which payment arrangements have been agreed to by both the taxpayer and the Franchise Tax Board and the taxpayer is in compliance with the arrangement.

(2) A delinquency for which the taxpayer has filed for bankruptcy protection pursuant to Title 11 of the United States Code.

(3) A delinquency for which the person or persons liable for the tax have contacted the Franchise Tax Board and for which resolution of the tax delinquency has been accepted by the Franchise Tax Board.

(c) Each list shall, with respect to each delinquency, include all the following:

(1) The name of the person or persons liable for payment of the tax and that person's or persons' address.

(2) The amount of tax delinquency as shown on the notice or notices of state tax lien and any applicable interest or penalties, less any amounts paid.

(3) The earliest date that a notice of state tax lien was filed.

(4) The type of tax that is delinquent.

(5) The type, status, and license number of any occupational or professional license held by the person or persons liable for payment of the tax.

(6) The names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation. The Franchise Tax Board shall refer to the limited liability company's or the corporation's Statement of Information filed with the Secretary of State or to the limited liability company's or the corporation's tax return filed pursuant to this part to determine the principal officers of the limited liability

company or corporation. Principal officers appearing on a list solely pursuant to this paragraph shall not be subject to Section 494.5 of the Business and Professions Code, or Section 10295.4 of the Public Contract Code.

(d) Prior to making a tax delinquency a matter of public record as required by this section, the Franchise Tax Board shall provide a preliminary written notice to the person or persons liable for the tax by certified mail, return receipt requested. If within 30 days after issuance of the notice, the person or persons do not remit the amount due or make arrangements with the Franchise Tax Board for payment of the amount due, the tax delinquency shall be included on the list.

(e) The list described in subdivision (a) shall include the following:

(1) The telephone number and address of the Franchise Tax Board office to contact if a person believes placement of his or her name on the list is in error.

(2) The aggregate number of persons that have appeared on the list who have satisfied their delinquencies in their entirety and the dollar amounts, in the aggregate, that have been paid attributable to those delinquencies.

(f) As promptly as feasible, but no later than five business days from the occurrence of any of the following, the Franchise Tax Board shall remove that taxpayer's name from the list of tax delinquencies:

(1) Tax delinquencies for which the person liable for the tax has contacted the Franchise Tax Board and resolution of the delinquency has been arranged.

(2) Tax delinquencies for which the Franchise Tax Board has verified that an active bankruptcy proceeding has been initiated.

(3) Tax delinquencies for which the Franchise Tax Board has verified that a bankruptcy proceeding has been completed and there are no assets available with which to pay the delinquent amount or amounts.

(4) Tax delinquencies that the Franchise Tax Board has determined to be uncollectible.

(g) A person whose delinquency appears on the list, and who satisfies that delinquency in whole or in part, may request the Franchise Tax Board to include in its list any payments that person made to satisfy the delinquency. Upon receipt of that request, the Franchise Tax Board shall include those payments on the list as promptly as feasible.

(h) Notwithstanding subdivision (a), a person whose delinquency appeared on the list and whose name has been removed pursuant to paragraph (1) of subdivision (f) shall comply with the terms of the arranged resolution. If the person fails to do so, the Franchise Tax Board may add that person's name to the list of delinquencies without providing the prior written notice otherwise required by subdivision (d).

SEC. 12. Article 7 (commencing with Section 19291) is added to Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 7. Collection of Tax Debts Due to the Internal Revenue Service
or Other States

19291. (a) The Franchise Tax Board may enter into an agreement to collect any delinquent tax debt due to the Internal Revenue Service or any other state imposing an income tax or tax measured by income if, pursuant to Section 19377.5, the Internal Revenue Service or that state has entered into an agreement to collect delinquent tax debts due the Franchise Tax Board.

(b) Upon written notice to the debtor from the Franchise Tax Board, any amount referred to the Franchise Tax Board under subdivision (a) shall be treated as final and due and payable to the State of California, and shall be collected from the debtor by the Franchise Tax Board in any manner authorized under the law for collection of a delinquent income tax liability, including, but not limited to, the recording of a notice of state tax lien under Article 2 (commencing with Section 7170) of Chapter 14 of Division 7 of Title 1 of the Government Code, and the issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.

(c) Part 10 (commencing with Section 17001), this part, Part 10.7 (commencing with Section 21001), and Part 11 (commencing with Section 23001) shall apply to amounts referred under this section in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this section, except to the extent that any provision is either inconsistent with this section or is not relevant to this section.

(d) The activities required to implement and administer this section shall not interfere with the primary mission of the Franchise Tax Board to administer Part 10 (commencing with Section 17001) and Part 11 (commencing with Section 23001).

(e) In no event shall a collection under this section be construed as a payment of income taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

SEC. 13. Section 19377.5 is added to the Revenue and Taxation Code, to read:

19377.5. (a) The Franchise Tax Board may enter into an agreement with the Internal Revenue Service or any other state imposing an income tax or tax measured by income for the purpose of collecting delinquent tax debts with respect to amounts assessed or imposed under Part 10 (commencing with Section 17001), this part, or Part 11 (commencing with Section 23001), provided the agreements do not cause the net displacement of civil service employees. The agreement may provide, at the discretion of the Franchise Tax Board, the rate of payment and the manner in which compensation for services shall be paid.

(b) At the discretion of the Franchise Tax Board, the Internal Revenue Service or the other state collecting the tax debt pursuant to subdivision (a)

may, as part of the collection process, refer the tax debt for litigation by its legal representatives in the name of the Franchise Tax Board.

(c) For purposes of this section, “displacement” includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions. “Displacement” does not include changes in shifts or days off, nor does it include reassignment to any other position within the same class and general location.

SEC. 14. Section 19533 of the Revenue and Taxation Code is amended to read:

19533. In the event the debtor has more than one debt being collected by the Franchise Tax Board and the amount collected by the Franchise Tax Board is insufficient to satisfy the total amount owing, the amount collected shall be applied in the following priority:

(a) Payment of any delinquencies transferred for collection under Article 5 (commencing with Section 19270) of Chapter 5.

(b) Payment of any taxes, additions to tax, penalties, interest, fees, or other amounts due and payable under Part 7.5 (commencing with Section 13201), Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part, and amounts authorized to be collected under Section 19722.

(c) Payment of delinquent wages collected pursuant to the Labor Code.

(d) Payment of delinquencies collected under Section 10878.

(e) Payment of any amounts due that are referred for collection under Article 5.5 (commencing with Section 19280) of Chapter 5.

(f) Payment of any amounts that are referred for collection pursuant to Section 62.9 of the Labor Code.

(g) Payment of delinquent penalties collected for the Department of Industrial Relations pursuant to the Labor Code.

(h) Payment of delinquent fees collected for the Department of Industrial Relations pursuant to the Labor Code.

(i) Payment of delinquencies referred by the Student Aid Commission.

(j) Payment of any delinquencies referred for collection under Article 7 (commencing with Section 19291) of Chapter 5.

(k) Notwithstanding the payment priority established by this section, voluntary payments designated by the taxpayer as payment for a personal income tax liability or as a payment on amounts authorized to be collected under Section 19722, shall not be applied pursuant to this priority, but shall instead be applied as designated.

SEC. 15. Section 19571 is added to the Revenue and Taxation Code, to read:

19571. (a) The Franchise Tax Board may disclose to state governmental licensing entities identifying information of persons appearing on the list of 500 largest tax delinquencies pursuant to Section 19195 for purposes of administering Section 494.5 of the Business and Professions Code. “Identifying information” means the name, social security number or taxpayer identification number, and the last known address of the persons appearing on the list of the 500 largest tax delinquencies.

(b) Neither the state governmental licensing entity, nor any officer, employee, or agent, or former officer, employee, or agent of a state governmental licensing entity, may disclose or use any information obtained from the Franchise Tax Board pursuant to this section, except to administer Section 494.5 of the Business and Professions Code or to inform the public of the denial, refusal to renew, or suspension of a license or the issuance of a temporary license pursuant to Section 494.5 of the Business and Professions Code.

(c) For purposes of this section, state governmental licensing entity means a state governmental licensing entity as defined in Section 494.5 of the Business and Professions Code.

SEC. 16. Section 19572 is added to the Revenue and Taxation Code, to read:

19572. (a) The Franchise Tax Board may disclose to state agencies identifying information of persons appearing on the list of the 500 largest tax delinquencies pursuant to Section 19195 for purposes of administering Section 10295.4 of the Public Contract Code. "Identifying information" means the name, social security number or taxpayer identification number, and the last known address of the persons appearing on the list of the 500 largest tax delinquencies.

(b) A state agency, and any officer, employee, or agent, or former officer, employee, or agent of a state agency, shall not disclose or use any information obtained from the Franchise Tax Board, pursuant to this section, except to administer Section 10295.4 of Public Contract Code.

SEC. 17. Section 34623.1 is added to the Vehicle Code, to read:

34623.1. The motor carrier permit of a licensee may be suspended pursuant to Section 494.5 of the Business and Professions Code if a licensee's name is included on a certified list of tax delinquencies provided by the State Board of Equalization or the Franchise Tax Board pursuant to Section 7063 or Section 19195, respectively of the Revenue and Taxation Code.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Attachment 6

California Law Changes for 2012

Provided below are code sections that were added or amended during the 2011 Legislative Session. Unless otherwise indicated, all these provisions go into effect January 1, 2012. Summaries of the changes made to many of the code sections will be provided in the next issue of *The Script*.

(~~Strikeout~~ indicates text that has been removed. Underlined text indicates new or added text.)

Business and Professions Code

Section 4104 of the Business and Professions Code is amended to read:

(a) Every pharmacy shall have in place procedures for taking action to protect the public when a licensed individual employed by or with the pharmacy is discovered or known to be chemically, mentally, or physically impaired to the extent it affects his or her ability to practice the profession or occupation authorized by his or her license, or is discovered or known to have engaged in the theft, diversion, or self-use of dangerous drugs.

(b) Every pharmacy shall have written policies and procedures for addressing chemical, mental, or physical impairment, as well as theft, diversion, or self-use of dangerous drugs, among licensed individuals employed by or with the pharmacy.

(c) Every pharmacy shall report and provide to the board, within ~~30~~14 days of the receipt or development ~~of thereof~~, the following information with regard to any licensed individual employed by or with the pharmacy:

(1) Any admission by a licensed individual of chemical, mental, or physical impairment affecting his or her ability to practice.

(2) Any admission by a licensed individual of theft, diversion, or self-use of dangerous drugs.

(3) Any video or documentary evidence demonstrating chemical, mental, or physical impairment of a licensed individual to the extent it affects his or her ability to practice.

(4) Any video or documentary evidence demonstrating theft, diversion, or self-use of dangerous drugs by a licensed individual.

(5) Any termination based on chemical, mental, or physical impairment of a licensed individual to the extent it affects his or her ability to practice.

(6) Any termination of a licensed individual based on theft, diversion, or self-use of dangerous drugs.

(d) The report required in subdivision (c) shall include sufficient detail to inform the board of the facts upon which the report is based, including an estimate of the type and quantity of all dangerous drugs involved, the timeframe over which the losses are suspected, and the date of the last controlled substances inventory. Upon request of the board, the pharmacy shall prepare and submit an audit involving the dangerous drugs suspected to be missing.

(e) Anyone making a report authorized or required by this section shall have immunity from any liability, civil or criminal, that might otherwise arise from the making of the report. Any participant shall have the same immunity with respect to participation in any administrative or judicial proceeding resulting from the report.

Section 4105 of the Business and Professions Code is amended to read:

(a) All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form.

(b) The licensee may remove the original records or documentation from the licensed premises on a temporary basis for license-related purposes. However, a duplicate set of those records or other documentation shall be retained on the licensed premises.

(c) The records required by this section shall be retained on the licensed premises for a period of three years from the date of making.

(d) Any records that are maintained electronically shall be maintained so that the pharmacist-in-charge, the pharmacist on duty if the pharmacist-in-charge is not on duty, or, in the case of a veterinary food-animal drug retailer or wholesaler, the designated representative on duty, shall, at all times during which the licensed premises are open for business, be able to produce a hard copy and electronic copy of all records of acquisition or disposition or other drug or dispensing-related records maintained electronically.

(e) (1) Notwithstanding subdivisions (a), (b), and (c), the board, may upon written request, grant to a licensee a waiver of the requirements that the records described in subdivisions (a), (b), and (c) be kept on the licensed premises.

(2) A waiver granted pursuant to this subdivision shall not affect the board's authority under this section or any other provision of this chapter.

~~(f) This section shall become operative on January 1, 2006~~ When requested by an authorized officer of the law or by an authorized representative of the board, the owner, corporate officer, or manager of an entity licensed by the board shall provide the board with the requested records within three business days of the time the request was made. The entity may request in writing an extension of this timeframe for a period not to exceed 14 calendar days from the date the records were requested. A request for an extension of time is subject to the approval of the board. An extension shall be deemed approved if the board fails to deny the extension request within two business days of the time the extension request was made directly to the board.

Section 4112 of the Business and Professions Code is amended to read:

(a) Any pharmacy located outside this state that ships, mails, or delivers, in any manner, controlled substances, dangerous drugs, or dangerous devices into this state shall be considered a nonresident pharmacy.

(b) A person may not act as a nonresident pharmacy unless he or she has obtained a license from the board. The board may register a nonresident pharmacy that is organized as a limited liability company in the state in which it is licensed.

(c) A nonresident pharmacy shall disclose to the board the location, names, and titles of (1) its agent for service of process in this state, (2) all principal corporate officers, if any, (3) all general partners, if any, and (4) all pharmacists who are dispensing controlled substances, dangerous drugs, or dangerous devices to residents of this state. A report containing this information shall be made on an annual basis and within 30 days after any change of office, corporate officer, partner, or pharmacist.

(d) All nonresident pharmacies shall comply with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is licensed as well as with all requests for information made by the board pursuant to this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit, or registration to conduct the pharmacy in compliance with the laws of the state in which it is a resident. As a prerequisite to registering with the board, the nonresident pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which it is located.

(e) All nonresident pharmacies shall maintain records of controlled substances, dangerous drugs, or dangerous devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed.

(f) Any pharmacy subject to this section shall, during its regular hours of operation, but not less than six days per week, and for a minimum of 40 hours per week, provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free telephone number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this state.

(g) A nonresident pharmacy shall not permit a pharmacist whose license has been revoked by the board to manufacture, compound, furnish, sell, dispense, or initiate the prescription of a dangerous drug or dangerous device, or to provide any pharmacy-related service, to a person residing in California.

(h) The board shall adopt regulations that apply the same requirements or standards for oral consultation to a nonresident pharmacy that operates pursuant to this section and ships, mails, or delivers any controlled substances, dangerous drugs, or dangerous devices to residents of this state, as are applied to an in-state pharmacy that operates pursuant to Section 4037 when the pharmacy ships, mails, or delivers any controlled substances, dangerous drugs, or dangerous devices to residents of this state. The board shall not adopt any regulations that require face-to-face consultation for a prescription that is shipped, mailed, or delivered to the patient. The regulations adopted pursuant to this subdivision shall not result in any unnecessary delay in patients receiving their medication.

~~(h)~~(i) The registration fee shall be the fee specified in subdivision (a) of Section 4400.

~~(i)~~(j) The registration requirements of this section shall apply only to a nonresident pharmacy that ships, mails, or delivers controlled substances, dangerous drugs, and dangerous devices into this state pursuant to a prescription.

~~(j)~~(k) Nothing in this section shall be construed to authorize the dispensing of contact lenses by nonresident pharmacists except as provided by Section 4124.

Section 4140 of the Business and Professions Code is repealed.

~~No person shall possess or have under his or her control any hypodermic needle or syringe except when acquired in accordance with this article.~~

Section 4144 of the Business and Professions Code is amended to read:

(a) A person may sell or obtain hypodermic needles and hypodermic syringes without a prescription or permit, for uses that the board determines are industrial, and that person shall not be required to comply with Section 4145 or 4146.

(b) This section shall be inoperative until January 1, 2015.

Section 4144.5 is added to the Business and Professions Code, to read:

(a) A person may sell or obtain hypodermic needles and hypodermic syringes without a prescription or permit, for uses that the board determines are industrial, and that person shall not be required to comply with Section 4145.5 or 4146.

(b) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

Section 4145 of the Business and Professions Code is amended to read:

(a) Notwithstanding any other provision of law, a pharmacist or physician may, without a prescription or a permit, furnish hypodermic needles and syringes for human use, and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist or physician for human use, if one of the following requirements is met:

(1) The person is known to the furnisher and the furnisher has previously been provided a prescription or other proof of a legitimate medical need requiring a hypodermic needle or syringe to administer a medicine or treatment.

(2) Pursuant to authorization by a county, with respect to all of the territory within the county, or a city, with respect to the territory within the city, for the period commencing January 1, 2005, and ending December 31, 2018, a pharmacist may furnish or sell 10 or fewer hypodermic needles or syringes at any one time to a person 18 years of age or older if the pharmacist works for a pharmacy that is registered with the Disease Prevention Demonstration Project pursuant to Chapter 13.5 (commencing with Section 121285) of Part 4 of Division 105 of the Health and Safety Code and the pharmacy complies with the provisions of that chapter.

(b) Notwithstanding any other provision of law, a pharmacist, veterinarian, or person licensed pursuant to Section 4141 may, without a prescription or license, furnish hypodermic needles and syringes for use on animals, and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist, veterinarian, or person licensed pursuant to Section 4141 for use on animals,

providing that no needle or syringe shall be furnished to a person who is unknown to the furnisher and unable to properly establish his or her identity.

(c) This section shall be inoperative until January 1, 2015.

Section 4145.5 is added to the Business and Professions Code, to read:

(a) Notwithstanding any other provision of law, a pharmacist or physician may, without a prescription or a permit, furnish hypodermic needles and syringes for human use, and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist or physician for human use, if the person is known to the furnisher and the furnisher has previously been provided a prescription or other proof of a legitimate medical need requiring a hypodermic needle or syringe to administer a medicine or treatment.

(b) Notwithstanding any other provision of law, as a public health measure intended to prevent the transmission of HIV, viral hepatitis, and other bloodborne diseases among persons who use syringes and hypodermic needles, and to prevent subsequent infection of sexual partners, newborn children, or other persons, a physician or pharmacist may, without a prescription or a permit, furnish 30 or fewer hypodermic needles and syringes for human use to a person 18 years of age or older, and a person 18 years of age or older may, without a prescription or license, obtain 30 or fewer hypodermic needles and syringes solely for personal use from a physician or pharmacist.

(c) Notwithstanding any other provision of law, a pharmacist, veterinarian, or person licensed pursuant to Section 4141 may, without a prescription or license, furnish hypodermic needles and syringes for use on animals, and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist, veterinarian, or person licensed pursuant to Section 4141 for use on animals, providing that no needle or syringe shall be furnished to a person who is unknown to the furnisher and unable to properly establish his or her identity.

(d) A pharmacy that furnishes nonprescription hypodermic needles and syringes shall store hypodermic needles and syringes in a manner that ensures that they are available only to authorized personnel, and are not accessible to other persons.

(e) In order to provide for the safe disposal of hypodermic needles and syringes, a pharmacy or hypodermic needle and syringe exchange program that furnishes nonprescription hypodermic needles and syringes shall provide consumers with one or more of the following disposal options:

(1) It shall establish an onsite, safe, hypodermic needle and syringe collection and disposal program that meets applicable state and federal standards for collection and disposal of medical sharps waste.

(2) It shall furnish, or make available, mail-back sharps containers authorized by the United States Postal Service that meet applicable state and federal requirements for the transport of medical sharps waste, and shall provide tracking forms to verify destruction at a certified disposal facility.

(3) It shall furnish, or make available, a sharps container that meets applicable state and federal standards for collection and disposal of medical sharps waste.

(f) A pharmacy that furnishes nonprescription syringes shall provide written information or verbal counseling to consumers at the time of furnishing or sale of nonprescription hypodermic needles or syringes on how to do the following:

(1) Access drug treatment.

(2) Access testing and treatment for HIV and hepatitis C.

(3) Safely dispose of sharps waste.

(g) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

Section 4148 of the Business and Professions Code is amended to read:

(a) All stocks of hypodermic needles or syringes shall be confiscated if found outside the licensed premises of any person holding a permit under Section 4141 and found not in the possession or under the control of a person entitled to an exemption under Section 4143, 4144, or 4145.

(b) This section shall be inoperative until January 1, 2015.

Section 4148.5 is added to the Business and Professions Code, to read:

(a) All stocks of hypodermic needles or syringes shall be confiscated if found outside the licensed premises of any person holding a permit under Section 4141 and found not in the possession or under the control of a person entitled to an exemption

under Section 4143, 4144, or 4145.5, or under Section 11364.5, 121349, or 121349.1 of the Health and Safety Code.

(b) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

Section 4149.5 is added to the Business and Professions Code, to read:

(a) Local authorizations related to Sections 4144, 4145, and 4148 of this code and Sections 11364 and 121285 of the Health and Safety Code shall be inoperative until January 1, 2015.

(b) Local authorizations related to Sections 4144, 4145, and 4148 of this code and Sections 11364 and 121285 of the Health and Safety Code shall again become operative on January 1, 2015, unless the city, county, or city and county acts to remove the authorization.

Section 4200 of the Business and Professions Code is amended to read:

(a) The board may license as a pharmacist an applicant who meets all the following requirements:

(1) Is at least 18 years of age.

(2) (A) Has graduated from a college of pharmacy or department of pharmacy of a university recognized by the board; or

(B) If the applicant graduated from a foreign pharmacy school, the foreign-educated applicant has been certified by the Foreign Pharmacy Graduate Examination Committee.

(3) Has completed at least 150 semester units of collegiate study in the United States, or the equivalent thereof in a foreign country. No less than 90 of those semester units shall have been completed while in resident attendance at a school or college of pharmacy.

(4) Has earned at least a baccalaureate degree in a course of study devoted to the practice of pharmacy.

(5) Has completed 1,500 hours of pharmacy practice experience or the equivalent in accordance with Section 4209.

(6) Has passed ~~a written and practical examination given by the board prior to December 31, 2003, or has passed the North American Pharmacist Licensure Examination and the California Practice Standards and Jurisprudence Examination for Pharmacists on or after January 1, 2004.~~

(b) Proof of the qualifications of an applicant for licensure as a pharmacist shall be made to the satisfaction of the board and shall be substantiated by affidavits or other evidence as may be required by the board.

(c) Each person, upon application for licensure as a pharmacist under this chapter, shall pay to the executive officer of the board the fees provided by this chapter. The fees shall be compensation to the board for investigation or examination of the applicant.

Section 4207 of the Business and Professions Code is amended to read:

(a) Upon receipt of an application for a license and the applicable fee, the board shall make a thorough investigation to determine whether the applicant is qualified for the license being sought. The board shall also determine whether this article has been complied with, and shall investigate all matters directly related to the issuance of the license that may affect the public welfare.

(b) The board shall not investigate matters connected with the operation of a premises other than those matters solely related to the furnishing of dangerous drugs or dangerous devices that might adversely affect the public welfare.

(c) The board shall deny an application for a license if the applicant does not qualify for the license being sought.

(d) Notwithstanding any other provision of law, the board may request any information it deems necessary to complete the application investigation required by this section, and a request for information that the board deems necessary in carrying out this section in any application or related form devised by the board shall not be required to be adopted by regulation pursuant to the Administrative ~~Procedures~~ Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

Section 4324 of the Business and Professions Code is amended to read:

(a) Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment ~~in the state prison~~ pursuant to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in ~~the~~ a county jail for not more than one year.

(b) Every person who has in his or her possession any drugs secured by a forged prescription shall be punished by imprisonment ~~in the state prison~~ pursuant to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in the county jail for not more than one year.

Health and Safety Code

Section 11161.5 of the Health and Safety Code is amended to read:

(a) Prescription forms for controlled substance prescriptions shall be obtained from security printers approved by the Department of Justice.

(b) The department may approve security printer applications after the applicant has provided the following information:

(1) Name, address, and telephone number of the applicant.

(2) Policies and procedures of the applicant for verifying the identity of the prescriber ordering controlled substance prescription forms.

(3) Policies and procedures of the applicant for verifying delivery of controlled substance prescription forms to prescribers.

(4) (A) The location, names, and titles of the applicant's agent for service of process in this state; all principal corporate officers, if any; ~~and all managing general partners, if any; and any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor of the applicant who has direct access to, or management or control of,~~ controlled substance prescription forms.

(B) A report containing this information shall be made on an annual basis and within 30 days after any change of office, principal corporate officers, ~~or~~ managing general partner, or of any person described in subparagraph (A).

(5) (A) A signed statement indicating whether the applicant, any principal corporate officers, or officer, any managing general partners have partner, or any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor of the applicant who has direct access to, or management or control of, controlled substance prescription forms, has ever been convicted of, or pled no contest to, a violation of any law of a foreign country, the United States, or any state, or of any local ordinance.

(B) The department shall provide the applicant and any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor of the applicant who has direct access to, or management or control of, controlled substance prescription forms, with the means and direction to provide fingerprints and related information, in a manner specified by the department, for the purpose of completing state, federal, or foreign criminal background checks.

(C) Any applicant described in subdivision (b) shall submit his or her fingerprint images and related information to the department, for the purpose of the department obtaining information as to the existence and nature of a record of state, federal, or foreign level convictions and state, federal, or foreign level arrests for which the department establishes that the applicant was released on bail or on his or her own recognizance pending trial, as described in subdivision (I) of Section 11105 of the Penal Code. Requests for federal level criminal offender record information received by the department pursuant to this section shall be forwarded to the Federal Bureau of Investigation by the department.

(D) The department shall assess against each security printer applicant a fee determined by the department to be sufficient to cover all processing, maintenance, and investigative costs generated from or associated with completing state, federal, or foreign background checks and inspections of security printers pursuant to this section with respect to that applicant; the fee shall be paid by the applicant at the time he or she submits fingerprints the security printer application, fingerprints, and related information to the department.

(E) The department shall retain fingerprint impressions and related information for subsequent arrest notification pursuant to Section 11105.2 of the Penal Code for all applicants.

(c) The department may, within 60 calendar days of receipt of the application from the applicant, deny the security printer application.

(d) The department may deny a security printer application on any of the following grounds:

(1) The applicant, any individual owner, partner, corporate officer, manager, agent, representative, employee, or subcontractor for the applicant, who has direct access, management, or control of controlled substance prescription forms, has been convicted of a crime. A conviction within the meaning of this paragraph means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) The applicant committed any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself, herself, or another, or substantially injure another.

(3) The applicant committed any act that would constitute a violation of this division.

(4) The applicant knowingly made a false statement of fact required to be revealed in the application to produce controlled substance prescription forms.

(5) The department determines that the applicant failed to demonstrate adequate security procedures relating to the production and distribution of controlled substance prescription forms.

(6) The department determines that the applicant has submitted an incomplete application.

(7) As a condition for its approval as a security printer, an applicant shall authorize the Department of Justice to make any examination of the books and records of the applicant, or to visit and inspect the applicant during business hours, to the extent deemed necessary by the board or department to properly enforce this section.

(e) An approved applicant shall submit an exemplar of a controlled substance prescription form, with all security features, to the Department of Justice within 30 days of initial production.

(f) The department shall maintain a list of approved security printers and the department shall make this information available to prescribers and other appropriate government agencies, including the Board of Pharmacy.

(g) Before printing any controlled substance prescription forms, a security printer shall verify with the appropriate licensing board that the prescriber possesses a

license and current prescribing privileges which permits the prescribing of controlled substances with the federal Drug Enforcement Administration (DEA).

(h) Controlled substance prescription forms shall be provided directly to the prescriber either in person, by certified mail, or by a means that requires a signature signifying receipt of the package and provision of that signature to the security printer. Controlled substance prescription forms provided in person shall be restricted to established customers. Security printers shall obtain a photo identification from the customer and maintain a log of this information. Controlled substance prescription forms shall be shipped only to the prescriber's address on file and verified with the federal Drug Enforcement Administration or the Medical Board of California.

(i) Security printers shall retain ordering and delivery records in a readily retrievable manner for individual prescribers for three years.

(j) Security printers shall produce ordering and delivery records upon request by an authorized officer of the law as defined in Section 4017 of the Business and Professions Code.

(k) Security printers shall report any theft or loss of controlled substance prescription forms to the Department of Justice via fax or e-mail within 24 hours of the theft or loss.

(l) (1) The department ~~may~~ shall impose restrictions, sanctions, or penalties, subject to subdivisions (m) and (n), against security printers who are not in compliance with this division pursuant to regulations implemented pursuant to this division and shall revoke its approval of a security printer for a violation of this division or action that would permit a denial pursuant to subdivision (d) of this section.

(2) When the department revokes its approval, it shall notify the appropriate licensing boards and remove the security printer from the list of approved security printers.

(m) The following violations by security printers shall be punishable pursuant to subdivision (n):

(1) Failure to comply with the Security Printer Guidelines established by the Security Printer Program as a condition of approval.

(2) Failure to take reasonable precautions to prevent any dishonest act or illegal activity related to the access and control of security prescription forms.

(3) Theft or fraudulent use of a prescriber's identity in order to obtain security prescription forms.

(n) A security printer approved pursuant to subdivision (b) shall be subject to the following penalties for actions leading to the denial of a security printer application specified in subdivision (d) or for a violation specified in subdivision (m):

(1) For a first violation, a fine not to exceed one thousand dollars (\$1,000).

(2) For a second or subsequent violation, a fine not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(3) For a third or subsequent violation, a filing of an administrative disciplinary action seeking to suspend or revoke security printer approval.

Section 11162.1 of the Health and Safety Code is amended to read:

(a) The prescription forms for controlled substances shall be printed with the following features:

(1) A latent, repetitive "void" pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words "California Security Prescription."

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermochromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form ~~and so that the prescriber may indicate the quantity by checking the applicable box where the following quantities shall appear:~~

25-49

50-74

75-100

101-150

151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(8) Prescription blanks shall contain a statement printed on the bottom of the prescription blank that the "Prescription is void if the number of drugs prescribed is not noted."

(9) The preprinted name, category of licensure, license number, federal controlled substance registration ~~number~~ number, and address of the prescribing practitioner.

(10) Check boxes shall be printed on the form so that the prescriber may indicate the number of refills ordered.

(11) The date of origin of the prescription.

(12) A check box indicating the prescriber's order not to substitute.

(13) An identifying number assigned to the approved security printer by the Department of Justice.

(14) (A) A check box by the name of each prescriber when a prescription form lists multiple prescribers.

(B) Each prescriber who signs the prescription form shall identify himself or herself as the prescriber by checking the box by his or her name.

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

(c) (1) A prescriber designated by a licensed health care facility, a clinic specified in Section 1200, or a clinic specified in subdivision (a) of Section 1206 that has 25 or more physicians or surgeons may order controlled substance prescription forms for use by prescribers when treating patients in that facility without the information required in paragraph (9) of subdivision (a) or paragraph (3) of this subdivision.

(2) Forms ordered pursuant to this subdivision shall have the name, category of licensure, license number, and federal controlled substance registration number of the designated prescriber and the name, address, category of licensure, and license number of the licensed health care facility the clinic specified in Section 1200, or the clinic specified in ~~subdivision (a) of~~ Section 1206 that has 25 or more physicians or surgeons preprinted on the form. Licensed health care facilities or clinics exempt under Section 1206 are not required to preprint the category of licensure and license number of their facility or clinic.

(3) Forms ordered pursuant to this section shall not be valid prescriptions without the name, category of licensure, license number, and federal controlled substance registration number of the prescriber on the form.

(4) (A) Except as provided in subparagraph (B), the designated prescriber shall maintain a record of the prescribers to whom the controlled substance prescription forms are issued, that shall include the name, category of licensure, license number, federal controlled substance registration number, and quantity of controlled substance prescription forms issued to each prescriber. The record shall be maintained in the health facility for three years.

(B) Forms ordered pursuant to this subdivision that are printed by a computerized prescription generation system shall not be subject to subparagraph (A) or paragraph (7) of subdivision (a). Forms printed pursuant to this subdivision that are printed by a computerized prescription generation system may contain the prescriber's name, category of professional licensure, license number, federal controlled substance registration number, and the date of the prescription.

(d) This section shall become operative on January 1, 2012. Prescription forms not in compliance with this division shall not be valid or accepted after July 1, 20042012.

Section 11165 of the Health and Safety Code is amended to read:

(a) To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds from the Contingent

Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, and the Osteopathic Medical Board of California Contingent Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and Internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

(b) The reporting of Schedule III and Schedule IV controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds from the Department of Justice. The ~~Department of Justice~~ department may seek and use grant funds to pay the costs incurred from the reporting of controlled substance prescriptions to CURES. Funds shall not be appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, the Naturopathic Doctor's Fund, or the Osteopathic Medical Board of California Contingent Fund to pay the costs of reporting Schedule III and Schedule IV controlled substance prescriptions to CURES.

(c) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party.

(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy or clinic shall provide the following information to the Department of Justice on a weekly basis and in a format specified by the Department of Justice:

(1) Full name, address, and the telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

- (2) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.
- (3) Pharmacy prescription number, license number, and federal controlled substance registration number.
- (4) NDC (National Drug Code) number of the controlled substance dispensed.
- (5) Quantity of the controlled substance dispensed.
- (6) ICD-9 (diagnosis code), if available.
- (7) Number of refills ordered.
- (8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.
- (9) Date of origin of the prescription.
- (10) Date of dispensing of the prescription.
- (e) This section shall become operative on January 1, 2005.

Section 11165.1 of the Health and Safety Code is amended to read:

- (a) (1) A licensed health care practitioner eligible to prescribe Schedule II, Schedule III, or Schedule IV controlled substances or a pharmacist may ~~make a written request for~~ provide a notarized application developed by the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient maintained within the Department of Justice, and the department may release to that practitioner or pharmacist, the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP).
- (A) An application may be denied, or a subscriber may be suspended, for reasons which include, but are not limited to, the following:
 - (i) Materially falsifying an application for a subscriber.

(ii) Failure to maintain effective controls for access to the patient activity report.

(iii) Suspended or revoked federal Drug Enforcement Administration (DEA) registration.

(iv) Any subscriber who is arrested for a violation of law governing controlled substances or any other law for which the possession or use of a controlled substance is an element of the crime.

(v) Any subscriber accessing information for any other reason than caring for his or her patients.

(B) Any authorized subscriber shall notify the Department of Justice within 10 days of any changes to the subscriber account.

(2) To allow sufficient time for licensed health care practitioners eligible to prescribe Schedule II, Schedule III, or Schedule IV controlled substances and a pharmacist to apply and receive access to PDMP, a written request may be made, until July 1, 2012, and the Department of Justice may release to that practitioner or pharmacist, pharmacist the history of controlled substances dispensed to an individual under his or her care based on data contained in CURES.

~~(a)~~(b) Any request for, or release of, a controlled substance history pursuant to this section shall be made in accordance with guidelines developed by the Department of Justice.

~~(b)~~(c) In order to prevent the inappropriate, improper, or illegal use of Schedule II, Schedule III, or Schedule IV controlled substances, the Department of Justice may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

~~(c)~~(d) The history of controlled substances dispensed to an individual based on data contained in CURES that is received by a practitioner or pharmacist from the Department of Justice pursuant to this section shall be considered medical information subject to the provisions of the Confidentiality of Medical Information Act contained in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(e) Information concerning a patient's controlled substance history provided to a prescriber or pharmacist pursuant to this section shall include prescriptions for controlled substances listed in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code of Federal Regulations.

Section 11165.2 is added to the Health and Safety Code, to read:

- a) The Department of Justice may conduct audits of the CURES Prescription Drug Monitoring Program system and its users.
- (b) The Department of Justice may establish, by regulation, a system for the issuance to a CURES Prescription Drug Monitoring Program subscriber of a citation which may contain an order of abatement, or an order to pay an administrative fine assessed by the Department of Justice if the subscriber is in violation of any provision of this chapter or any regulation adopted by the Department of Justice pursuant to this chapter.
- (c) The system shall contain the following provisions:
 - (1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law or regulation of the department determined to have been violated.
 - (2) Whenever appropriate, the citation shall contain an order of abatement establishing a reasonable time for abatement of the violation.
 - (3) In no event shall the administrative fine assessed by the department exceed two thousand five hundred dollars (\$2,500) for each violation. In assessing a fine, due consideration shall be given to the appropriateness of the amount of the fine with respect to such factors as the gravity of the violation, the good faith of the subscribers, and the history of previous violations.
 - (4) An order of abatement or a fine assessment issued pursuant to a citation shall inform the subscriber that if the subscriber desires a hearing to contest the finding of a violation, a hearing shall be requested by written notice to the CURES Prescription Drug Monitoring Program within 30 days of the date of issuance of the citation or assessment. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
 - (5) In addition to requesting a hearing, the subscriber may, within 10 days after service of the citation, request in writing an opportunity for an informal conference with the department regarding the citation. At the conclusion of the informal conference, the department may affirm, modify, or dismiss the citation, including any fine levied or order of abatement issued. The decision shall be deemed to be a final order with regard to the citation issued, including the fine levied or the order of abatement which could include permanent suspension to the system, a monetary fine, or both, depending on the gravity of the violation. However, the subscriber does

not waive its right to request a hearing to contest a citation by requesting an informal conference. If the citation is affirmed, a formal hearing may be requested within 30 days of the date the citation was affirmed. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for a subsequent citation, it shall be requested within 30 days of service of that subsequent citation.

(6) Failure of a subscriber to pay a fine within 30 days of the date of assessment or comply with an order of abatement within the fixed time, unless the citation is being appealed, may result in disciplinary action taken by the department. If a citation is not contested and a fine is not paid, the subscriber account will be terminated:

(A) A citation may be issued without the assessment of an administrative fine.

(B) Assessment of administrative fines may be limited to only particular violations of law or department regulations.

(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as a satisfactory resolution of the matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the CURES Program Special Fund, available upon appropriation by the Legislature. These special funds shall provide support for costs associated with informal and formal hearings, maintenance, and updates to the CURES Prescription Drug Monitoring Program.

(f) The sanctions authorized under this section shall be separate from, and in addition to, any other administrative, civil, or criminal remedies; however, a criminal action may not be initiated for a specific offense if a citation has been issued pursuant to this section for that offense, and a citation may not be issued pursuant to this section for a specific offense if a criminal action for that offense has been filed.

(g) Nothing in this section shall be deemed to prevent the department from serving and prosecuting an accusation to suspend or revoke a subscriber if grounds for that suspension or revocation exist.

Section 11165.3 is added to the Health and Safety Code, to read:

The theft or loss of prescription forms shall be reported immediately by the security printer or affected prescriber to the CURES Prescription Drug Monitoring Program, but no later than three days after the discovery of the theft or loss. This notification may be done in writing utilizing the Bureau of Narcotic Enforcement 1175 Reporting Theft/Loss Form or may be reported by the authorized subscriber through the CURES Prescription Drug Monitoring Program.

Section 121349 of the Health and Safety Code is amended to read:

(a) The Legislature finds and declares that scientific data from needle exchange programs in the United States and in Europe have shown that the exchange of used hypodermic needles and syringes for clean hypodermic needles and syringes does not increase drug use in the population, can serve as an important bridge to treatment and recovery from drug abuse, and can curtail the spread of human immunodeficiency virus (HIV) infection among the intravenous drug user population.

(b) In order to ~~attempt to~~ reduce the spread of HIV infection and ~~blood-borne~~ bloodborne hepatitis among the intravenous drug user population within California, the Legislature hereby authorizes a clean needle and syringe exchange project pursuant to this chapter in any ~~city and county~~ city, county, or city and county upon the action of a county board of supervisors and the local health officer or health commission of that county, or upon the action of the city council, the mayor, and the local health officer of a city with a health department, or upon the action of the city council and the mayor of a city without a health department.

(c) In order to reduce the spread of HIV infection, viral hepatitis, and other potentially deadly bloodborne infections, the State Department of Public Health may, notwithstanding any other law, authorize entities that provide services set forth in paragraph (1) of subdivision (d), and that have sufficient staff and capacity to provide the services described in Section 121349.1, as determined by the department, to apply for authorization under this chapter to provide hypodermic needle and syringe exchange services consistent with state standards in any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling infections that are spread through the sharing of used hypodermic needles and syringes. Authorization shall be made after consultation with the local health officer and local law enforcement leadership, and after a period of public comment, as described in subdivision (e). In making the determination, the department shall balance the concerns of law enforcement with the public health benefits. The authorization shall not be for more than two years. Before the end of the two-year period, the department may reauthorize the program in consultation with the local health officer and local law enforcement leadership.

(d) In order for an entity to be authorized to conduct a project pursuant to this chapter, its application to the department shall demonstrate that the entity complies with all of the following minimum standards:

(1) The entity provides, directly or through referral, all of the following services:

(A) Drug abuse treatment services.

(B) HIV or hepatitis screening.

(C) Hepatitis A and hepatitis B vaccination.

(D) Screening for sexually transmitted infections.

(E) Housing services for the homeless, for victims of domestic violence, or other similar housing services.

(F) Services related to provision of education and materials for the reduction of sexual risk behaviors, including, but not limited to, the distribution of condoms.

(2) The entity has the capacity to commence needle and syringe exchange services within three months of authorization.

(3) The entity has adequate funding to do all of the following at reasonably projected program participation levels:

(A) Provide needles and syringe exchange services for all of its participants.

(B) Provide HIV and viral hepatitis prevention education services for all of its participants.

(C) Provide for the safe recovery and disposal of used syringes and sharps waste from all of its participants.

(4) The entity has the capacity, and an established plan, to collect evaluative data in order to assess program impact, including, but not limited to, all of the following:

(A) The total number of persons served.

(B) The total number of syringes and needles distributed, recovered, and disposed of.

(C) The total numbers and types of referrals to drug treatment and other services.

(e) If the application is provisionally deemed appropriate by the department, the department shall, at least 90 days prior to approval of the application, provide for a period of public comment as follows:

(1) Post on the department's Internet Web site the name of the applicant, the nature of the services, and the location where the applying entity will provide the services.

(2) Send a written and an e-mail notice to the local health officer of the affected jurisdiction.

(3) Send a written and an e-mail notice to the chief of police, the sheriff, or both, as appropriate, of the jurisdictions in which the program will operate.

(f) The department shall establish and maintain on its Internet Web site the address and contact information of programs providing hypodermic needle and syringe exchange services pursuant to this chapter.

(g) The authorization provided under this section shall only be for a clean needle and syringe exchange project as described in Section 121349.1.

(h) This section shall become inoperative on January 1, 2019, and as of that date is repealed.

Section 121349 is added to the Health and Safety Code, to read:

(a) The Legislature finds and declares that scientific data from needle exchange programs in the United States and in Europe have shown that the exchange of used hypodermic needles and syringes for clean hypodermic needles and syringes does not increase drug use in the population, can serve as an important bridge to treatment and recovery from drug abuse, and can curtail the spread of human immunodeficiency virus (HIV) infection among the intravenous drug user population.

(b) In order to reduce the spread of HIV infection and bloodborne hepatitis among the intravenous drug user population within California, the Legislature hereby authorizes a clean needle and syringe exchange project pursuant to this chapter in any city, county, or city and county upon the action of a county board of supervisors and the local health officer or health commission of that county, or upon the action of the city council, the mayor, and the local health officer of a city with a health

department, or upon the action of the city council and the mayor of a city without a health department.

(c) The authorization provided under this section shall only be for a clean needle and syringe exchange project as described in Section 121349.1.

(d) This section shall become operative on January 1, 2019.

Section 121349.1 of the Health and Safety Code is amended to read:

~~A city and county, or a~~

(a) The State Department of Public Health or a city, county, or a city and county with or without a health department, that acts to authorize a clean needle and syringe exchange project pursuant to this chapter shall, in consultation with the State Department of ~~Health Services~~Public Health, authorize the exchange of clean hypodermic needles and syringes, as recommended by the United States Secretary of Health and Human Services, subject to the availability of funding, as part of a network of comprehensive services, including treatment services, to combat the spread of HIV and ~~blood-borne~~bloodborne hepatitis infection among injection drug users. ~~Providers~~Staff and volunteers participating in an exchange project authorized by the state, county, city, or city and county pursuant to this chapter shall not be subject to criminal prosecution for ~~possession of needles or syringes during participation in an exchange project.~~

violation of any law related to the possession, furnishing, or transfer of hypodermic needles or syringes during participation in an exchange project. Program participants shall not be subject to criminal prosecution for possession of needles or syringes acquired from an authorized needle and syringe exchange project entity.

(b) This section shall become inoperative on January 1, 2019, and as of that date is repealed

Section 121349.1 is added to the Health and Safety Code, to read:

(a) A city, county, or a city and county, with or without a health department, that acts to authorize a clean needle and syringe exchange project pursuant to this chapter shall, in consultation with the State Department of Public Health, authorize the exchange of clean hypodermic needles and syringes, as recommended by the United States Public Health Service, subject to the availability of funding, as part of a network of comprehensive services, including treatment services, to combat the spread of HIV and bloodborne hepatitis infection among injection drug users.

Providers participating in an exchange project authorized by the county, city, or city and county pursuant to this chapter shall not be subject to criminal prosecution for possession of needles or syringes during participation in an exchange project.

(b) This section shall become operative on January 1, 2019.

Section 121349.2 of the Health and Safety Code is amended to read:

(a) Local government, local ~~public~~ health officials, and law enforcement shall be given the opportunity to comment on clean needle and syringe exchange programs on ~~an annual~~ a biennial basis. The public shall be given the opportunity to provide input to local leaders to ensure that any potential adverse impacts on the public welfare of clean needle and syringe exchange programs are addressed and mitigated.

(b) This section shall become inoperative on January 1, 2019, and as of that date is repealed.

Section 121349.2 is added to the Health and Safety Code, to read:

(a) Local government, local public health officials, and law enforcement shall be given the opportunity to comment on clean needle and syringe exchange programs on an annual basis. The public shall be given the opportunity to provide input to local leaders to ensure that any potential adverse impacts on the public welfare from clean needle and syringe exchange programs are addressed and mitigated.

(b) This section shall become operative on January 1, 2019.

Section 121349.3 of the Health and Safety Code is amended to read:

(a) The health officer of the participating jurisdiction shall present ~~annually~~ biennially at an open meeting of the board of supervisors or city council a report detailing the status of clean needle and syringe exchange ~~programs~~ programs, including, but not limited to, relevant statistics on ~~blood-borne~~ bloodborne infections associated with needle sharing activity and the use of public funds for these programs. Law enforcement, administrators of alcohol and drug treatment programs, other stakeholders, and the public shall be afforded ample opportunity to comment at this ~~annual~~ biennial meeting. The notice to the public shall be sufficient to ~~assure~~ ensure adequate participation in the meeting by the public. This meeting shall be noticed in accordance with all state and local open meeting laws and ordinances, and as local officials deem appropriate.

. For hypodermic needle and syringe exchange services authorized by the State Department of Public Health, a biennial report shall be provided by the department to the local health officer based on the reports to the department from service providers within the jurisdiction of that local health officer.

(b) This section shall become inoperative on January 1, 2019, and as of that date is repealed.

Section 121349.3 is added to the Health and Safety Code, to read:

(a) The health officer of the participating jurisdiction shall present, annually at an open meeting of the board of supervisors or city council, a report detailing the status of clean needle and syringe exchange programs, including, but not limited to, relevant statistics on bloodborne infections associated with needle sharing activity and the use of public funds for these programs. Law enforcement, administrators of alcohol and drug treatment programs, other stakeholders, and the public shall be afforded ample opportunity to comment at this annual meeting. The notice to the public shall be sufficient to ensure adequate participation in the meeting by the public. This meeting shall be noticed in accordance with all state and local open meeting laws and ordinances, and as local officials deem appropriate.

(b) This section shall become operative on January 1, 2019.

Civil Code

Section 56.101 of the Civil Code is amended to read:

(a) Every provider of health care, health care service plan, pharmaceutical company, or contractor who creates, maintains, preserves, stores, abandons, destroys, or disposes of medical ~~records-information~~ shall do so in a manner that preserves the confidentiality of the information contained therein. Any provider of health care, health care service plan, pharmaceutical company, or contractor who negligently creates, maintains, preserves, stores, abandons, destroys, or disposes of medical ~~records-information~~ shall be subject to the remedies and penalties provided under subdivisions (b) and (c) of Section 56.36.

(b) (1) An electronic health record system or electronic medical record system shall do the following:

(A) Protect and preserve the integrity of electronic medical information.

(B) Automatically record and preserve any change or deletion of any electronically stored medical information. The record of any change or deletion shall include the identity of the person who accessed and changed the medical information, the date and time the medical information was accessed, and the change that was made to the medical information.

(2) A patient's right to access or receive a copy of his or her electronic medical records upon request shall be consistent with applicable state and federal laws governing patient access to, and the use and disclosures of, medical information.

(c) This section shall apply to an "electronic medical record" or "electronic health record" that meets the definition of "electronic health record," as that term is defined in Section 17921(5) of Title 42 of the United States Code.



California State Board of Pharmacy

1625 N. Market Blvd, Suite N 219, Sacramento, CA 95834
Phone (916) 574-7900
Fax (916) 574-8618
www.pharmacy.ca.gov

STATE AND CONSUMERS SERVICES AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
GOVERNOR EDMUND G. BROWN, JR.

Legislation and Regulation Committee

Shirley Wheat, Chair, Public Member

Ramón Castellblanch, Public Member

Deborah Veale, RPh

Tappan Zee, Public Member

LEGISLATION AND REGULATION COMMITTEE

The Legislation and Regulation Committee has not met in the last quarter due to travel restrictions on state agencies.

PART 3: FOURTH QUARTERLY REPORT ON THE COMMITTEE'S GOALS FOR 2011/2012

Attachment 1

The attached Strategic Plan goals have been modified to reflect changes during the first and second quarters of Fiscal Year 2011/2012.

Attachment 7

LEGISLATION AND REGULATION COMMITTEE

Goal 3: Advocate legislation and promulgate regulations that advance the vision and mission of the Board of Pharmacy.

Outcome: Improve the health and safety of Californians.

Objective 3.1	Annually identify and respond with legislative changes to keep pharmacy laws current and consistent with the board's mission.
Measure:	100 percent successful enactment of promoted legislative changes.
Tasks:	<p>1. Secure extension of board's sunset date.</p> <p><i>1st Qtr 06/07: Governor signs SB 1476 which delays the board's sunset date two years (until 2010), and requires the board's sunset report in 2008.</i></p> <p><i>4th Qtr 06/07: SB 963 (Ridley-Thomas) is amended to alter the sunset review process.</i></p> <p><i>1st Qtr 08/09: SB 963 (Ridley-Thomas) is amended to alter the sunset review process. Board staff attend a stakeholders meeting with committee staff to discuss amendments.</i></p> <p><i>Governor signs SB 963 (Chapter 385, Statutes of 2008)</i></p> <p><i>1st Qtr 09/10: Sunset extension amended into AB 1071. Bill enrolled and sent to Governor.</i></p> <p><i>2nd Qtr 09/10: Governor signs AB 1071 (Chapter 270, Statutes of 2009) to extend the board's sunset date to 2013.</i></p> <p><i>3rd Qtr 09/10: Sunset bills introduced</i></p> <p><i>AB 1659 (Huber) – State Government, Agency Repeals</i></p> <p><i>AB 2130 (Huber) – Joint Committee on Boards, Commissions and Consumer Protection</i></p> <p><i>SB 954 (Harmon) – Legislative Procedure, Committee Referrals</i></p> <p><i>SB 1171 (Negrete McLeod) – Regulatory Boards, Operations</i></p> <p><i>4th Qtr 09/10: SB 954 (Harmon) – Bill is dead (Failed deadline)</i></p> <p><i>SB 1171 (Negrete McLeod) – Bill is dead (Failed deadline)</i></p> <p><i>1st Qtr 10/11: Governor signs AB 1659 (Chapter 666, Statutes of 2010)</i></p> <p><i>Governor signs AB 2130 (Chapter 670, Statutes of 2010)</i></p>

2. Sponsor legislation to update pharmacy law.

Enacted - 1st Qtr. 08/09: SB 1048 (Chapter 588, Statutes 2007) containing board omnibus provisions

Oct. 2007: Board sponsors omnibus provisions for 2008. Four types of changes are discussed.

(1) Changes specific to the PIC and DRC requirements

- Section 4022.5 – Designated Representative; Designated Representative-in-Charge
- Section 4036.5 – Pharmacist-in-Charge
- Section 4161 – Nonresident wholesaler
- Section 4305 – Pharmacist-in-Charge; Notice to Board; Disciplinary Action
- Section 4329 – Nonpharmacists; Prohibited Acts
- Section 4330 – Proprietors; Prohibited Acts

(2) Changes to allow for the use of mobile pharmacies

- Section 4062 – Furnishing Dangerous Drugs During an Emergency.
- Section 4110 – License Required, Temporary Permit Upon Transfer of Ownership.

(3) General changes

- Section 4059.5 – Who May order Dangerous Drugs or Devices, Exceptions.
- Section 4081 – Records of Dangerous Drugs and Devices Kept Open for Inspection; Maintenance of Records, Current Inventory
- Section 4126.5 – Furnishing Dangerous Drugs by Pharmacy.
- Section 4231 – Requirements for Renewal of Pharmacist License: Clock Hours; Exemption for New Licensee.
- H&SC 11165 – Controlled Substance Utilization Review and Evaluation System: Establishment; Operation; Funding; Reporting to Legislature.

(4) Changes based on recodification of Business and Professions

Code section 4052

- Section 733 – Dispensing Prescription Drugs and Devices
- Section 4027 – Skilled Nursing Facility – Intermediate Care Facility – Other Health Care Facilities
- Section 4040 – Prescription; Content Requirements
- Section 4051 – Conduct Limited to Pharmacist; Conduct Authorized by Pharmacist
- Section 4060 – Controlled Substance – Prescription Required, Exceptions
- Section 4076 – Prescription Container – Requirements for Labeling
- Section 4111 – Restrictions on Prescriber Ownership
- Section 4174 – Dispensing by Pharmacist Upon Order of Nurse Practitioner
- H&SC 11150 – Persons Authorized to Write or Issue a Prescription

	<p>Jan. 2008: <i>Staff provides language to Senate Business and Professions Committee for inclusion in omnibus bill SB 1779.</i></p> <p><i>Board approved language for omnibus bill.</i></p> <p>April 2008: <i>Some provisions of omnibus bill removed:</i></p> <ul style="list-style-type: none"> • <i>Section 4101 – Pharmacist-in-Charge; Designated Representative-in-Charge; Termination of Status; Duty to Notify the Board.</i> • <i>Section 4113 – Pharmacist-in-Charge; Approval; Responsibilities; Notifications</i> • <i>Section 4160 – Wholesaler Licenses</i> • <i>Section 4196 – Veterinary Food-Animal Drug Retailer Licenses; Persons Allowed in Areas Where Drugs are Stored, Possessed, or Repacked</i> • <i>Section 4362 – Entry Into Pharmacists Recovery Program.</i> <p>Oct. 2008: <i>Governor vetoes SB 1779</i></p> <p>1st Qtr 08/09: <i>Board seeks to pursue omnibus provisions (formerly contained in SB 1779). Four areas of change: (Included in SB 819)</i></p> <p><i>(1) Changes specific to the PIC and DRC requirements</i></p> <ul style="list-style-type: none"> • <i>Section 4022.5 – Designated Representative; Designated Representative-in-Charge</i> • <i>Section 4036.5 – Pharmacist-in-Charge</i> • <i>Section 4305 – Pharmacist-in-Charge; Notice to Board; Disciplinary Action</i> • <i>Section 4329 – Nonpharmacists; Prohibited Acts</i> • <i>Section 4330 – Proprietors; Prohibited Acts</i> <p><i>(2) Changes to allow for the use of mobile pharmacies</i></p> <ul style="list-style-type: none"> • <i>Section 4062 – Furnishing Dangerous Drugs During an Emergency.</i> • <i>Section 4110 – License Required, Temporary Permit Upon Transfer of Ownership.</i> <p><i>(3) General changes</i></p> <ul style="list-style-type: none"> • <i>Section 4059.5 – Who May order Dangerous Drugs or Devices, Exceptions.</i> • <i>Section 4081 – Records of Dangerous Drugs and Devices Kept Open for Inspection; Maintenance of Records, Current Inventory</i> • <i>Section 4126.5 – Furnishing Dangerous Drugs by Pharmacy.</i> • <i>Section 4231 – Requirements for Renewal of Pharmacist License: Clock Hours; Exemption for New Licensee.</i> <p><i>H&SC 11165 – Controlled Substance Utilization Review and Evaluation System: Establishment; Operation; Funding; Reporting to Legislature.</i></p>
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	<p>(4) <i>Changes based on recodification of Business and Professions Code section 4052</i></p> <ul style="list-style-type: none"> • <i>Section 733 – Dispensing Prescription Drugs and Devices</i> • <i>Section 4027 – Skilled Nursing Facility – Intermediate Care Facility – Other Health Care Facilities</i> • <i>Section 4040 – Prescription; Content Requirements</i> • <i>Section 4051 – Conduct Limited to Pharmacist; Conduct Authorized by Pharmacist</i> • <i>Section 4060 – Controlled Substance – Prescription Required, Exceptions</i> • <i>Section 4076 – Prescription Container – Requirements for Labeling</i> • <i>Section 4111 – Restrictions on Prescriber Ownership</i> • <i>Section 4174 – Dispensing by Pharmacist Upon Order of Nurse Practitioner</i> • <i>H&SC 11150 – Persons Authorized to Write or Issue a Prescription</i> <p>1st Qtr 08/09: <i>Board seeks to introduce additional changes: (Included in SB 821)</i></p> <ul style="list-style-type: none"> • <i>Section 4101 – Pharmacist-in-Charge; Designated Representative-in-Charge; Termination of Status; Duty to Notify the board.</i> • <i>Section 4113 – Pharmacist-in-Charge; Approval; Responsibilities; Notifications</i> • <i>Section 4160 – Wholesaler Licenses</i> • <i>Section 4196 – Veterinary Food-Animal Drug Retailer Licenses; Persons Allowed in Areas Where Drugs are Stored, Possessed, or Repacked</i> • <i>Section 4362 – Entry Into Pharmacists Recovery Program.</i> <p><i>New Provisions</i></p> <ul style="list-style-type: none"> • <i>4200.1 – Pharmacist Examination; Remedial Education</i> • <i>4112 – Non-resident Pharmacy: Registration Required</i> • <i>4146 – Return and Disposal of Sharps</i> • <i>4013 – Subscriber Alert</i> <p>3rd Qtr 08/09: <i>SB 821 introduced</i></p>
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2nd Qtr 09/10: Governor signs SB 819 and SB 821, which contains all omnibus provisions with the exception of 4200.1 - Pharmacists Examination.

3rd Qtr 09/10: Staff provides language to Senate Business Professions and Economic Development Committee for inclusion in two omnibus bills.

Omnibus Proposal #1:

- (1) Amendments to update references to the California Department of Public Health (formerly known as Department of Health Services)
 - §4017 – Authorized Officers of the Law
 - §4027 – Skilled Nursing Facility – Intermediate Care Facility – Other Health Care Facilities
 - §4028 – Definition of Licensed Hospital
 - §4037 – Definition of Pharmacy
 - §4052.3 – Emergency Contraception Drug Therapy; Requirements and Limitations
 - §4072 – Oral or Electronic Transmission of Prescription – Health Care Facility
 - §4101 – Pharmacist-in-Charge, Designated Representative-in-Charge; Termination of Status; Duty to Notify the Board Prescription: Exceptions.
 - §4119 – Furnish Prescription Drug to Licensed Health Care Facility – Secured Emergency Supplies
 - §4127.1 – License to Compound Injectable Sterile Drug Products Required
 - §4169 – Prohibited Acts (also, strike operative date of 2008)
 - §4181 – License Requirements; Policies and Procedures; Who May Dispense
 - §4191 – Compliance with California Department of Public Health Requirements; Who May dispense Drugs
- (2) Amendment to update a reference to the Physical Therapy Board of California (formerly known as the Physical Therapy Examining Committee of California)
 - §4059 – Furnishing Dangerous Drugs or Devices Prohibited Without Prescription: Exceptions
- (3) Amendments to update references to the State Department of Health Care Services (formerly known as the Department of Health Services)
 - §4425 – Pharmacy Participation in Medi-Cal Program; Conditions; Department of Health Care Services Utilization Review and Monitoring
 - §4426 – Department of Health Care Services to Study Reimbursement Rates

Omnibus Proposal #2

- (1) Amend §4196(e) – Veterinary Food-Animal Drug Retailer; Designated Representative-in-Charge
- (2) Amend §4200.1 – Retaking Examinations; Limits; Requirements (NAPLEX and CPJE 4x Failure)
- (3) Add §4362 – Pharmacists Recovery Program

3rd Qtr 09/10: SB 1489 introduced (Senate Business, Professions, and Economic Development Committee). Includes proposals #1 and #2, with the exception of §4362.

	<p>4th Qtr 09/10: Board establishes support position of SB 1489. SB 1489 is amended to modify §4013 – Subscriber Alert provisions for an owner of two or more pharmacies. SB 1489 is amended to modify §4076.5 – Patient-Centered Prescription Labels to authorize the board to exempt long-term health care facilities from regulations.</p> <p>1st Qtr 10/11: Governor signs SB 1489 (Chapter 653, Statutes of 2010).</p> <p>2nd Qtr 10/11: Board seeks to pursue omnibus provisions Section 4200 – Remove obsolete reference to prior pharmacist examination Staff provides language to Senate Committee on Business, Professions and Economic Development for inclusion in an omnibus bill.</p> <p>3rd Qtr 10/11: Staff provides language to Senate Business Professions and Economic Development for inclusion in Omnibus Bill. SB 943 is introduced. Contains amendments to section 4200.</p> <p>1st Qtr 11/12: Governor signs SB 943 (Chapter 350, Statutes of 2011).</p> <p>3. Advocate the board's role and its positions regarding pharmacists' care and dispensing of dangerous drugs and devices (AB 2408). Sep. 30, 2006: Governor signs AB 2408. Amendments taken in August remove provisions that would have described the professional services provided by pharmacists, and authorized pharmacists outside California to provide pharmacists' care services to patients in California if licensed here or working within the framework of a nonresident pharmacy. Remaining provisions restructure pharmacist protocol provisions and several other changes.</p> <p>4. Secure statutory standards for pharmacies that compound medications (AB 595). Aug. 2006: Amendments made to remove opposition of DHS regarding pharmacy contracting with another pharmacy for compounded drugs triggers opposition from pharmacy organizations. Board drops AB 595, but will advance regulations developed for compounding pharmacies in the future. Aug. 2008: Regulatory effort initiated. (See Objective 3.2, Task 12) Oct. 2009: Board approves regulatory language for Initial Notice. Jan. 2010: Office of Administrative Law approves regulation. July 2010: Regulation effective.</p> <p>5. Secure implementation of e-pedigrees on prescription drugs dispensed in California. Sep. 2006: Governor signs SB 1476 which contains board amendments to delay implementation of the e-pedigree requirements until 2009, or upon board action, until 2011. Amendments also require interoperability, serialization, returned drug products to retain the initiating pedigree, require notice to the board of suspected or actual counterfeiting, and continuation of the pedigree through repackaging operations. Sep. 2008: Governor signs SB 1307 which delays implementation of e-pedigree.</p>
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	<p>6. Advocate the board's position on pending legislation affecting pharmacy practice and/or the board's jurisdiction.</p> <p>Oct. 2007: Governor signs the following: <i>AB 110 (Chapter 707, Statutes of 2007) Drug Paraphernalia: Clean Needle and Syringe Exchange Projects.</i> <i>SB 472 (Chapter 470, Statutes of 2007) Prescription Drugs: Labeling Requirements.</i> <i>SB 966 (Chapter 542, Statutes of 2007) Pharmaceutical Drug Disposal.</i></p> <p> Governor vetoes the following: <i>AB 249 (Eng) Healing Arts: Settlement Agreements.</i> <i>AB 543 (Plescia) Ambulatory Surgical Centers: Licensure.</i> <i>AB 1025 (Bass) Professions and Vocations: Denial of Licensure.</i> <i>SB 615 (Oropeza) Pharmacy Technicians: Scholarship Fund.</i></p> <p>Oct. 2008: Governor signs the following: <i>AB 1394 (Chapter 431, Statutes of 2008) Counterfeit: Trademarks</i> <i>SB 963 (Chapter 385, Statutes of 2008) Regulatory Boards: Sunset Review</i></p> <p> Governor vetoes the following: <i>AB 501 (Swanson) Pharmaceutical Devices</i> <i>AB 865 (Davis) State Agencies</i> <i>AB1574 (Plescia) Surgical Clinics: Licensure</i></p> <p>Jan. 2009: <i>Legislation introduced affecting Pharmacy law:</i> (New Session) <i>AB 67 (Nava) Pharmacy Patient Protection Act of 2008. Dispensing of prescriptions, irrespective of a pharmacist's ethical, moral, or religious objections.</i> <i>SB 26 (Simitian) Home-generated pharmaceutical wastes and the disposal of devices.</i></p>
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	<p>4th Qtr 08/09: AB 418 (Emmerson) Pharmacy Technicians – Education and CE Requirements AB 484 (Eng) Licensees Not in Compliance with Judgment or Order; Enforcement; Action on a License AB 718 (Emmerson) Prescription Drugs: Electronic Transmissions – Requirement to Electronically Transmit Data by January 2012 AB 830 (Cook) Drugs and Devices. References to US Pharmacopoeia; Compendia Recognized by the Centers of Medicare and Medicaid AB 877 (Emmerson) Healing Arts; DCA Committee Analysis; Scope of Healing Arts Practice AB 931 (Fletcher) Emergency Supplies – Doses Stored in an Emergency Supplies Container AB 1310 (Hernandez) Specifies Mandatory Fields for Initial and Renewal Application Forms (Various Healing Arts Boards). Annual Transmission of Data to Health Care Workforce Clearinghouse (OSHDPD) AB 1370 (Solorio) “Best Before” Date on a Prescription Label AB 1458 (Davis) Drugs: Adverse Effects Reporting SB 26 (Simitian) Home-Generated Pharmaceutical Waste SB 43 (Alquist) Cultural and Linguistic Competency SB 238 (Calderon) Medical Information SB 341 (DeSaulnier) California Department of Public Health to Contract with UC to Evaluate the Safety and Effectiveness of Prescription Drugs SB 389 (McLeod) – FBI and State Fingerprinting Requirements for DCA Boards and Bureaus SB 484 (Wright) Ephedrine Products to Schedule V SB 638 (Negrete McLeod) DCA Regulatory Boards -- Sunset Reviews SB 762 (Aanestad) Professions and Vocations; Healing Arts AB 718 (Emmerson) Prescription Drugs: Electronic Transmissions – Requirement to Electronically Transmit Data by January 2012 AB 830 (Cook) Drugs and Devices. References to US Pharmacopoeia; Compendia Recognized by the Centers of Medicare and Medicaid AB 931 (Fletcher) Emergency Supplies – Doses Stored in an Emergency Supplies Container AB 1310 (Hernandez) Specifies Mandatory Fields for Initial and Renewal Application Forms (Various Healing Arts Boards). Annual Transmission of Data to Health Care Workforce Clearinghouse (OSHDPD) SB 389 (McLeod) – FBI and State Fingerprinting Requirements for DCA Boards and Bureaus SB 484 (Wright) Ephedrine Products to Schedule V SB 638 (Negrete McLeod) DCA Regulatory Boards -- Sunset Reviews SB 762 (Aanestad) Professions and Vocations; Healing Arts</p> <p>1st Qtr 09/10: Governor signs SB 762 (Aanestad) Professions and Vocations; Healing Arts</p> <p>2nd Qtr 09/10: Governor signs SB 819 (Omnibus) Governor vetoes SB 820 (Omnibus) Governor signs SB 821 (Omnibus) Governor signs SB 470 (Corbett) - “Purpose” Governor signs AB 1071 (Emmerson) Pharmacy Fees; Sunset Governor signs AB 931 (Fletcher) - Emergency Supplies Container Governor signs AB 830 (Cook) Drugs and Devices; references to Compendia</p>
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3rd Qtr 09/10: *Board considers new legislation*

1. *Board of Pharmacy*
 - AB 2104 (Hayashi) – California State Board of Pharmacy
 - SB 1390 (Corbett) – Prescription Container Labels
2. *Pharmacy Practice*
 - AB 1869 (Anderson) – Pharmacy (spot bill)
 - AB 1916 (Davis) – Pharmacies: Mandatory Reporting of Med Errors
3. *Sunset Review and Legislative Oversight Proposals*
 - AB 1659 (Huber) – State Government, Agency Repeals
 - AB 2130 (Huber) – Joint Committee on Boards, Commissions and Consumer Protection
 - SB 954 (Harmon) – Legislative Procedure, Committee Referrals
 - SB 1171 (Negrete McLeod) – Regulatory Boards, Operations
 - SB 1172 (Negrete McLeod) – Sunset of Diversion Program
4. *Regulation of Dangerous Drugs and Devices*
 - AB 1455 (Hill) -- Pseudoephedrine
 - AB 2548 (Block) – CURES – Prescription Drug Monitoring Program
 - SB 971 (Pavley) – Bleeding Disorders: Blood Clotting Products
 - SB 1071 (DeSaulnier) – CURES
 - SB 1106 (Yee) – Prescribers – Dispensing of Samples
5. *Pharmacy Licensing Issues*
 - AB 2077 (Solorio) – Centralized Hospital Packaging Pharmacies
 - AB 2292 (Lowenthal) – Pharmacy: Clinics
 - AB 2551 (Hernandez) – Pharmacy Technician: Scholarship and Loan Repayment Program
6. *Distribution of Needles and Syringes*
 - AB 1701 (Chesbro) – Hypodermic Needles and Syringes
 - AB 1858 (Blumenfield) – Hypodermic Needles and Syringes: Exchange Services
 - AB 2139 (Chesbro) – Solid Waste: Product Stewardship
 - SB 1029 (Yee) -- Hypodermic Needles and Syringes
7. *General / Other*
 - AB 2112 (Monning) – Prescription Record Privacy Act

	<p>4th Qtr 09/10: Board considers additional legislation AB 1939 (Fletcher) Sharps Waste SB1111 (Negrete McLeod) DCA Enforcement Model</p> <p>Apr. 2010: Board takes positions on legislative measures: AB 1701 (Chesbro) Support AB 2104 (Hayashi) Oppose AB 2292 (Lowenthal) Support SB 1106 (Yee) Support if Amended AB 1916 (Davis) Bill is dead (failed deadline) AB 2112 (Monning) Bill is dead (failed deadline) SB 1111 (Negrete McLeod) Bill is dead (failed deadline)</p> <p>May 2010: AB 1869 (Anderson) Bill is dead (failed deadline) AB 1939 (Fletcher) Bill is dead (failed deadline)</p> <p>June 2010: SB 1390 (Corbett) Fails passage in policy committee SB 954 (Harman) Bill is dead (failed deadline) SB 1171 (Negrete McLeod) Bill is dead (failed deadline) AB 2139 (Chesbro) Bill is dead (failed deadline) AB 2292 (Lowenthal) Bill is dead (failed deadline) AB 2548 (Block) Bill is dead (Failed deadline)</p> <p>Apr./May 2010: AB 2104 (Hayashi) Amended twice</p> <p>June 2010: AB 2104 (Hayashi) Amended to authorize Board appointment of Executive Officer with approval of DCA Director.</p> <p>July 2010: AB 2077 (Solorio – Centralized Hospital Packaging Pharmacies. Board establishes Support position.</p>
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	<p>1st Qtr 10/11: Governor signs the following legislation:</p> <p><i>AB 2104 (Hayashi) – Requires DCA Director approval of the Board's appointment of Executive Officer (Chapter 374, Statutes of 2010)</i></p> <p><i>AB 1659 (Huber) – State Government, Agency Repeals (Chapter 666, Statutes of 2010)</i></p> <p><i>AB 2130 (Huber) – Joint Committee on Boards, Commissions and Consumer Protection (Chapter 670, Statutes of 2010)</i></p> <p><i>SB 1172 (Negrete McLeod) – Diversion Programs (Chapter 517, Statutes of 2010)</i></p> <p><i>AB 1071 (Chesbro) – Hypodermic Needles and Syringes (Chapter 667, Statutes of 2010)</i></p> <p><i>SB 1414 (Hill) – Apomorphine: Unscheduled (Chapter 76, Statutes of 2010)</i></p> <p><i>AB 2699 (Bass) – Licensure Exemption: State of Emergency (Chapter 270, Statutes of 2010)</i></p> <p>Governor vetoes the following legislation:</p> <p><i>AB 1858 (Blumenfield) – Hypodermic Needles and Syringes</i></p> <p><i>SB 1029 (Yee) – Hypodermic Needles and Syringes</i></p> <p><i>AB 2077 (Solorio) – Centralized Hospital Packaging Pharmacies</i></p> <p><i>SB 971 (Pavley) – Bleeding Disorders: Blood Clotting Products</i></p> <p><i>AB 2747 (Lowenthal) – Prisons: Pharmacy Services</i></p> <p>The following legislation fails passage:</p> <p><i>AB 1455 (Hill) – Pseudoephedrine</i></p> <p><i>SB 1071 (DeSaulnier) – CURES</i></p> <p><i>SB 1106 (Yee) – Prescribers Dispensing of Samples</i></p> <p><i>AB 2551 (Hernandez) – Pharmacy Technician Scholarship & Loan Repayment Program</i></p> <p><i>AB 1310 (Hernandez) – Healing Arts Database</i></p> <p>2nd Qtr 10/11: <i>SB 41 (Yee) Introduced – Hypodermic Needles and Syringes</i></p> <p><i>AB 36 (Hill) Introduced – Ephedrine: Retail Sale</i></p> <p><i>Board approves provisions for sponsorship in 2011/2012 Session:</i></p> <p><i>(1) Pharmacists Recovery Program</i></p> <ul style="list-style-type: none"> <i>Section 4362 – Amend to require that a participant in the pharmacists recovery program be responsible to pay an administrative co-pay each month to cover a portion of the administrative costs borne by the board; provision to allow the board to waive or defer the requirement based on a demonstrated financial hardship.</i>
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3rd Qtr 10/11: Board advised changes to 4362 will not be sought this year.

1. Board-Sponsored Legislation

SB 431 (Emmerson) Pharmacies: regulation

- Sections 4040.5, 4081 and 4126.5 – Proposal Regarding Return of Medicine to Reverse Distributors
- Sections 4104, 4105 and 4112 – Enforcement Enhancements

2. Legislation Impacting the Practice of Pharmacy or the Board's Jurisdiction

a. Board of Pharmacy/Licensing

- AB 377 (Solorio) Pharmacy: Centralized hospital packaging
- AB 399 (Lowenthal, Bonnie) Corrections: offender pharmacies
- AB 847 (Lowenthal, Bonnie) Pharmacy: clinics
- SB 100 (Price) Healing arts
- SB 632 (Emmerson) Pharmacy

b. Controlled Substances/Marijuana

- AB 507 (Hayashi) Pain management
- SB 847 (Correa) Medical Cannabis Licensing Act
- SB 786 (Dutton) Controlled substances

c. Reporting Requirements/Records

- SB 260 (Cannella) Controlled substances
- SB 315 (Wright) Ephedrine and pseudoephedrine
- SB 360 (DeSaulnier) Controlled Substance Utilization Review and Evaluation System

d. Healing Arts/DCA

- AB 675 (Hagman) Continuing education
- AB 958 (Berryhill) Regulatory boards: limitation periods
- AB 1003 (Smyth) Professional and vocational licenses
- AB 1328 (Pan) Professions and vocations
- SB 231 (Emmerson) Regulatory boards: healing arts
- SB 227 (Wyland) Business and professions: licensure (corrected)
- SB 538 (Price) Healing arts
- SB 544 (Price) Healing arts
- SB 667 (Wyland) Healing arts

e. Other

- AB 389 (Mitchell) Bleeding disorders: blood clotting products
- AB 604 (Skinner) Needle exchange programs
- SB 41 (Yee) Hypodermic Needles and Syringes
- SB 514 (Simitian) Dextromethorphan: sale to minors prohibited
- SB 850 (Leno) Medical records: confidential information

4th Qtr 10/11: Board considers and establishes positions on the following legislation

- a. Board of Pharmacy/Licensing
 - AB 377 (Solorio) Pharmacy: Centralized hospital packaging - Support if amended
 - AB 399 (Lowenthal, Bonnie) Corrections: offender pharmacies -Support
- b. Controlled Substances/Marijuana
 - AB 507 (Hayashi) Pain management - Oppose
- c. Reporting Requirements/Records
 - SB 315 (Wright) Ephedrine and pseudoephedrine - Support
 - SB 360 (DeSaulnier) Controlled Substance Utilization Review and Evaluation System - Watch
 - AB 1280 (Hill) Ephedrine Sales - Watch
- d. Healing Arts/DCA
 - SB 541 (Price) Expert Consultants - Support
- e. Other
 - AB 389 (Mitchell) Bleeding disorders: blood clotting products - Watch
 - AB 604 (Skinner) Needle exchange programs - Support
 - SB 41 (Yee) Hypodermic Needles and Syringes - Support if amended
 - SB 514 (Simitian) Dextromethorphan: sale to minors prohibited - Support

1st Qtr 11/12: Board considers and changes positions in the following legislation

- a. Controlled Substances/Marijuana
 - AB 507 (Hayashi) Pain management - Watch
 - AB 389 (Mitchell) Bleeding disorders: blood clotting products - Oppose

Governor signs the following legislation

- SB 541 (Price) Expert Consultants
(Chapter 339, Statutes of 2011)

2nd Qtr 11/12: Governor signs the following legislation

- AB 507 (Hayashi) Pain management
(Chapter 396, Statutes of 2011)
- SB 360 (DeSaulnier) Controlled Substance Utilization Review and Evaluation System (Chapter 418, Statutes of 2011)
- SB 514 (Simitian) Dextromethorphan: sale to minors prohibited
(Chapter 199, Statutes of 2011)
- SB 431 (Emmerson) Pharmacies (Chapter 646, Statutes of 2011)
- SB 850 (Leno) Medical records: confidential information
(Chapter 714, Statutes of 2011)

Governor signs the following legislation

- AB 604 (Skinner) Needle exchange programs
(Chapter 744, Statutes of 2011)
- SB 41 (Yee) Hypodermic Needles and Syringes
(Chapter 738, Statutes of 2011)

	<p>7. Expand the conditions under which a pharmacist may administer an immunization independent of physician protocol.</p> <p><i>March 2007:</i> Licensing Committee considers and approves concept. More work is required.</p> <p><i>June 2007:</i> Licensing Committee considers draft language and requests additional refinements to proposal for consideration at September 2007 committee meeting.</p> <p><i>Sept. 2007:</i> Licensing Committee forwards to full board legislative proposal.</p> <p><i>Oct. 2007:</i> Board approved draft legislation.</p> <p><i>Nov. 2007:</i> Staff meeting with stakeholders to elicit support for the proposal.</p> <p><i>Dec. 2007:</i> Staff develop fact sheets and work with experts in immunizations.</p> <p><i>Feb. 2009:</i> Assembly Member Skinner authors AB 977, to allow pharmacists to initiate and administer immunizations pursuant to the Centers for Disease Control's guidelines for the adult and adolescent immunizations schedules.</p> <p><i>April 2009:</i> Bill amended to allow pharmacists to initiate and administer pneumonococcal and influenza vaccines.</p> <p><i>May 2009:</i> Bill amended to intent language requesting the California Pharmacists Association to provide information to legislative Committees on the status of immunization protocols. (2-year bill)</p> <p><i>Jan. 2010:</i> Bill amended (removing opposition) to allow pharmacists to administer influenza vaccinations pursuant to protocol and to require specified documentation and reporting.</p> <p><i>Jan. 2010:</i> AB 977 passes out of Assembly Health Committee Board reaffirms "support" position.</p> <p><i>April 2010:</i> Board changes position from "sponsor" to "support".</p> <p><i>June 2010:</i> AB 977 amended to apply only to a pharmacist associated with an independent community pharmacy. Bill died in committee.</p>
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	<p>8. Advocate the board's role as an advocate for consumers by redesigning prescription label for all medicines dispensed to California patients.</p> <p><i>Oct. 2007: Governor signs SB 472 (Chapter 470, Statutes of 2007) Prescription Drugs: Labeling Requirements.</i></p> <p><i>Apr. 2008: First public forum held in Fremont.</i></p> <p><i>May 2008: Staff develop survey form to distribute to consumers to solicit input</i> <i>Staff attend Senior Seminar, interview attendees about prescription label and distribute surveys.</i></p> <p><i>June 2008: Staff attends community events, interview attendees about prescription label and distribute surveys.</i></p> <p><i>July 2008: Staff attends community events, interview attendees about prescription label and distribute surveys.</i></p> <p><i>Oct. 2008: Staff continues to attend community events, interview attendees about prescription label and distribute surveys.</i> <i>Public Education Committee updated on the status of survey results.</i></p> <p><i>Feb. 2009: Senator Corbett authors SB 470, to allow the purpose for which a medicine is prescribed to be included in the prescription and prescription label.</i></p> <p><i>May 2009: Bill passes out of the Senate</i></p> <p><i>Oct. 2009: Governor signs SB 470 (Chapter 590, Statutes of 2009).</i></p> <p><i>Oct. 2009: Board approves regulatory language for notice.</i></p> <p><i>Nov. 2009: Regulatory effort initiated.</i></p> <p><i>June 2010: Board adopts final text (See Objective 3.2, Task 16).</i></p> <p><i>Nov. 2010: Office of Administrative Law approves regulation.</i></p> <p><i>Jan. 2011: Regulation takes effect.</i></p> <p>9. Secure statutory fee increase to ensure sufficient funding to fulfill all of the boards statutory obligations as a consumer protection agency.</p> <p><i>Dec. 2008: Board receives findings of independent fee audit.</i></p> <p><i>Jan. 2009: Board votes to pursue fee increase.</i></p> <p><i>Feb. 2009: Assembly Member Emmerson authors AB 1071 which establishes new application and renewal fees.</i></p> <p><i>June 2009: Bill passes out of the Assembly.</i></p> <p><i>Sept. 2009: Bill is enrolled and sent to the Governor.</i></p> <p><i>Sept. 2009: Bill enrolled, then pulled back and amended to include sunset provisions for the board. Amendments pass Senate and Assembly concurs. The bill is re-enrolled.</i></p> <p><i>Oct. 2009: Governor signs AB 1071 (Chapter 270, Statutes of 2009)</i></p> <p><i>Jan. 2010: Statutory fee schedule implemented (supersedes 16 CCR 1749)</i></p>
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10. Advocate legislation to enhance the board's enforcement activities.

Jan. 2010: Staff working to include in department-wide enforcement legislation the following enhancements to the board's enforcement activities (board approved Oct 2009):

Section 4081 - Records of Dangerous Drugs and Devices Kept Open for Inspection; Maintenance of Records, Current Inventory.

Section 4104 - Licensed Employee, Theft or Impairment, Pharmacy Procedures.

Section 4112 - Nonresident Pharmacy; Registration; Provision of information to Board; Maintaining Records; Patient Consultation

2nd Qtr 10/11: Board approves provisions for sponsorship in 2011/2012 Session.

(1) Enforcement Enhancements

- Section 4104 – Amend to clarify that a pharmacy shall provide to the board, within 14 days, evidence of a licensee's theft or impairment. Require the pharmacy to conduct an audit to determine the scope of loss, and to provide the board with a certified copy of the audit results.
- Section 4105 – Amend to specify a time period in which records shall be provided to the board when requested by an inspector or authorized representative of the board.
- Section 4112 - Nonresident Pharmacy; Registration; Provision of information to Board; Maintaining Records; Patient Consultation.

(2) Pharmaceutical Waste – Reverse Distributors

- Section 4040.5 – Amend to specify that a reverse distributor may not accept previously dispensed medicine and specify that previously dispensed medicine returned to a pharmacy can only be handled by a licensed integrated waste hauler.
- Section 4081 – Amend to specify what records must be maintained of drugs being returned to a wholesaler or reverse distributor; and specify information that is to be maintained for drugs that are returned via a licensed integrated waste hauler.
- Section 4126.5 – Amend to authorize a pharmacy to furnish drugs to a licensed integrated waste hauler for the sole purpose of disposing of pharmaceutical waste returned to a pharmacy.

3rd Qtr 10/11: SB 431 is introduced containing – amendments to 4104, 4105, and 4112.

4th Qtr 10/11: SB 431 amended to also contain changes to 4081, 4126.5, and 4126.7.

2nd Qtr 11/12: Governor signs SB 431 (Chapter 646, Statutes of 2011).

Objective 3.2	Annually identify and respond with regulatory changes to keep pharmacy regulations current and consistent with the board's mission.
Measure:	Percentage successful enactment of promoted regulatory changes.
Tasks:	<ol style="list-style-type: none"> <p>1. Authorize technicians to check technicians in inpatient pharmacies with clinical pharmacist programs (§ 1793.7-1793.8).</p> <p><i>Jan. 2007: Office of Administrative Law approves rulemaking. Regulation takes effect.</i></p> <p>2. Authorize the use of prescription drop boxes and automated delivery machines for outpatient pharmacies (§ 1713 and 1717(e)).</p> <p><i>Jan. 2007: Regulation takes effect following approval by the Office of Administrative Law.</i></p> <p>3. Make technical changes in pharmacy regulations to keep the code updated.</p> <p><i>April 2007: Section 1775.4 – contested citations. DCA determines no regulation is needed to accomplish the requirement to allow 1 rescheduling of an office conference. This regulation is withdrawn.</i></p> <p><i>June 2007: Section 1706.2 – Criteria for abandonment of files, changes take effect following approval by the Office of Administrative Law.</i></p> <p>4. Repeal the requirement to post a notice regarding electronic files (§ 1717.2).</p> <p><i>March 2007: Office of Administrative Law approves rulemaking. Regulation takes effect.</i></p> <p>5. Revise and update Disciplinary Guidelines (§ 1760).</p> <p><i>Oct. 2007: Board approves regulation for 45-day comment period.</i></p> <p><i>May 2009: Regulation and revised Disciplinary Guidelines approved and takes effect.</i></p> <p><i>July 2011: Discussion to update Disciplinary Guidelines to also incorporate recommendations of the Substance Abuse Coordination Committee.</i></p> <p><i>Sep. 2011: Board approves draft regulation text and Disciplinary Guidelines for 45-day public comment.</i></p> <p><i>Oct. 2011: Board releases regulation text for 45-day comment to update the regulation and the Disciplinary Guidelines incorporated by reference. Regulation Hearing scheduled for January 31, 2012.</i></p> <p>6. Self-assessment of a wholesaler by the designated representative (§ 1784).</p> <p><i>April 2007: Office of Administrative Law approves rulemaking. Regulation takes effect.</i></p> <p><i>March 2011: Board releases language for 45-day comment to update regulation text and update Self-Assessment Form 17M-26 (See Objective 3.2, Task 25)</i></p> <p>7. Exempt the address of records of interns from display on the board's Website (§ 1727.1).</p> <p><i>Sep. 2006: Office of Administrative Law approves rulemaking. Regulation takes effect October 2006.</i></p> <p>8. Modification of building standards for pharmacies – rulemaking by the California Building Standards Commission.</p> <p><i>July 2006: Board notified that a new procedure now exists for adopting building standards. Staff will pursue these procedures in 2007.</i></p> <p><i>June 2007: Board staff submit rulemaking file to the California Building Standards Commission.</i></p>

9. **Update Notice to Consumers Poster in conformance with AB 2583 (Chapter 487, Statutes 2006)(§ 1707.2).**
Feb. 2007: Board notices regulation for 45 days comment period.
Nov. 2007: Regulation changes takes effect.
Jul. 2008: Board mails updated Notice to Consumers to all pharmacies in California.
1st Qtr 10/11: Board discusses updates to Notices to Consumers (See Objective 3.2, Task 19)
10. **Secure changes without regulatory effect (Section 100 changes) to pharmacy regulations to keep them accurate and current.**
Dec. 2007: Office of Administrative Law approves Section 100 Changes.
Amend the following:
1707 – Waiver of requirements for off-site storage of records
1709.1 – Designation of pharmacist-in-charge
1715 – Self-assessment of a pharmacy by the pharmacist-in-charge
1717 – Pharmacy practice
1746 – Emergency contraception
1780.1 – Minimum standards for veterinary food-animal drug retailers
1781 – Exemption certificate
1787 – Authorization to distribute dialysis drugs and devices
1790 – Assembling and packaging
1793.8 – Technician check technician
Repeal section 1786 – Exemptions
March 2009: Office of Administrative Law approves Section 100 Changes to update the self-assessment forms required in California Code of Regulations 1715 and 1784.
11. **Increase fees to keep the board's contingency fund solvent and maintain operations.**
Nov. 2007: Office of Administrative Law approves rulemaking.
Nov. 2007: Staff complete necessary programming changes and begin advising licensees of the change.
Jan. 1, 2008: New fees take effect.
Oct. 2009: Governor signs AB 1071, new fee schedule.
Jan. 2010: Statutory fee schedule becomes effective (supersedes 16 CCR §1749)
12. **Secure regulatory standards for pharmacies that compound. (§1735 et al)**
Nov. 2007: Board releases language for the 45-day comment period.
Sep. 2008: Board releases (withdrawn) language for 45-day comment period.
Oct. 2008: Regulation hearing
Jan. 2010: Office of Administrative Law approves regulation.
July 2010: Regulation and Self-Assessment Form 17M-39 is effective.
Board staff developing fact sheet for pharmacies.
March 2011: Board releases language for 45-day comment to update regulation text and update Self-Assessment Form 17M-39 (See Objective 3.2, Task 24)
Board notices regulation for 45-day comment period to update § 1735.2 and § 1751 and to revise/update the Compounding Self-Assessment form (17M-39).
May 2011: Board motions to adopt regulation.
June 2011: Rulemaking submitted to the Department for review.
13. **Establish an ethics course (§1773 and §1773.5).**
Sep. 2008: Board notices regulation for 45-day comment period.
Sep. 2009: Regulation takes effect.

	<p>14. Pharmacist Renewal Requirements (§1702). <i>Dec. 2009: Board notices regulation for 45-day comment period.</i> <i>Feb. 2010: Board adopts regulation.</i> <i>June 2010: Office of Administrative Law approves regulation.</i> <i>Dec. 2011: Regulation takes effect.</i></p> <p>15. Dishonest Conduct During Pharmacist Examination; Confidentiality of Exam Questions (§1721 and §1723.1). <i>Oct. 2009: Board notices regulation for 45-day comment period.</i> <i>Jan. 2010: Board adoption of regulation as noticed.</i> <i>July 2010: Rulemaking submitted to the Office of Administrative Law for review.</i> <i>Aug. 2010: Office of Administrative Law approves regulation.</i> <i>Sep. 2010: Regulation takes effect.</i></p> <p>16. Standardized, Patient-Centered Prescription Labels (§1707.5) <i>Nov. 2009: Board notices regulation for 45-day comment period.</i> <i>Jan. 2010: Regulation hearing.</i> <i>Feb. 2010: Board modifies text of regulation.</i> <i>Board notices modified text for 1st 15-day comment period.</i> <i>Apr. 2010: Board modifies text of regulation.</i> <i>Board notices modified text for 2nd 15-day comment period.</i> <i>June 2010: Board adopts regulation language noticed on April 28.</i> <i>July 2010: Rulemaking submitted to Department for review.</i> <i>Oct. 2010: Rulemaking submitted to the Office of Administrative Law for review.</i> <i>Nov. 2010: Office of Administrative Law approves rulemaking.</i> <i>Jan. 2011: Regulation takes effect.</i></p> <p>17. Update Protocol for Pharmacists Furnishing Emergency Contraception (EC) (§1746) <i>Jan. 2010: Board approves language to initiate rulemaking to correct a typographical error in the Emergency Contraception Protocol regulation.</i> <i>July 2010: Board begins working with Medical Board to update the EC Protocol.</i> <i>May-June 2011: Executive Officer works with Medical Board (MBC) and others to revise the protocol. The MBC will discuss at its July 2011 meeting. Pharmacy will discuss update of board regulation after MBC approval. The board will also need to update the Patient Information Fact Sheet on EC Protocol.</i></p> <p>18. Board Issued Continuing Education (CE) Credit (§1732.2) <i>Feb. 2010: Board votes to amend section 1732.2 defining board-issued CE and notice regulation for 45-day comment period.</i> <i>Oct. 2010: Board notices regulation for 45-day comment period.</i> <i>Feb. 2011: Board issues modified text for 15-day comment period.</i></p>
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	<p>19. Notice to Consumers re: Patient-Centered Prescription Labels</p> <p><i>Apr. 2010: Board directs staff to bring regulatory language to the July 2010 meeting re: increased font size, and language services.</i></p> <p><i>July 2010: Board discusses possible language for Notice to Consumers.</i></p> <p><i>Oct. 2010: Board discusses possible language for Notices to Consumers. Votes to modify and move existing Consumer Notices from §1707.2 to a new section at 16 CCR §1707.6, to include language for increased font size and oral interpretive services, and other changes.</i></p> <p><i>1st - 3rd Qtr 10/11: Board discusses updates to the Notices to Consumers to incorporate Patient-Centered Requirements.</i></p> <p><i>March 2011: Board approves language and directs staff to initiate a formal rulemaking to amend 16 CCR 1707.2 and to add 16 CCR §1707.6; directs staff to issue language for a 45 day public comment period; and to schedule a public hearing for the proposed regulation.</i></p> <p><i>Board approves language for 45-day comment period and schedules regulation hearing for July 2011.</i></p> <p><i>May 2011: Board notices regulation for 45-day comment period and notices regulation hearing for July 27, 2011.</i></p> <p><i>1st Qtr 11/12: Board conducts Regulation Hearing</i></p> <p><i>Board revises text and releases modified text for 15-day public comment.</i></p> <p><i>Absent negative comments, directs Executive Officer to adopt and complete rulemaking.</i></p> <p><i>2nd Qtr 11/12: Executive Officer adopts regulation and the completed file is submitted to the Department for Administrative Review.</i></p> <p>20. Update references to USP Standards (§1780)</p> <p><i>1st Qtr 07/08: Board considers review of USP references.</i></p> <p><i>2nd Qtr 07/08: Subcommittee established to conduct full review of USP updates needed.</i></p> <p>21. Veterinarian Food-Animal Drug Retailer Self-Assessment (§1785)</p> <p><i>1st Qtr 07/08: Board approves regulation for notice.</i></p> <p><i>2nd Qtr 07/08: Work on rulemaking stopped to allow for comprehensive review of Veterinary Food-Animal Drug Retailer Program.</i></p> <p>22. Accreditation Agencies for Pharmacies that Compound (§1751.x)</p> <p><i>1st Qtr 07/08: Board approves regulation text for notice (upon additional review by counsel, modification of language is necessary prior to notice of proposed text)</i></p>
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- 23. Pharmacist and Intern Pharmacist Applicants to submit a Self-Query from the National Practitioner Data Bank-Healthcare Integrity & Protection Data Bank (NPDB-HIPDB) (§ 1727.2, 1728)**
- 1st Qtr 10/11:** Board approves additional modifications to the Pharmacy Technician Application (Form 17A 5) and directs that the language approved in October 2010 and the application approved February 2011 be issued for a 45-day public comment period.
- 2nd Qtr 10/11:** Board votes to require applicants to submit a Self-Query from the National Practitioner Data Bank – Healthcare Integrity & Protection Data Bank (NPDB-HIPDB), and to amend/update the Pharmacy Technician application:
- Section 1728 – Amend to require an applicant for the pharmacist examination to submit a Self-Query Report from NPDB-HIPDB.
 - Section 1727.2. – Add new section to require an applicant for an Intern Pharmacist license to submit a Self-Query Report from NPDB-HIPDB.
 - Section 1793.5. – Amend to require a Pharmacy Technician applicant to submit a Self-Query Report from NPDB-HIPDB; and to modify the Pharmacist Technician Application (17A-5), incorporated by reference.
- April 2011:** Proposed Text to Amend §1793.5 and modify Form 17A-5 issued for 45 day public comment.
- Oct. 2011:** Board votes to require applicants to submit a Self-Query from the NPDB HIPDB.
- May 2011:** Board notices regulation for 45-day comment period.
- 24. Pharmacy Technician Applicants to submit a Self-Query from the National Practitioner Data Bank-Healthcare Integrity & Protection Data Bank (NPDB-HIPDB) and Revise Pharmacy Technician Application (§ 1793.5)**
- Oct. 2011:** Board votes to require applicants to submit a Self-Query from the NPDB HIPDB and to amend/update the Pharmacy Technician Application (17A-5)
- Feb. 2011:** Board approves additional modifications to TCH application.
- April 2011:** Board notices regulation for 45-day comment period.
- June 2011:** Regulation adopted.
Rulemaking submitted to the Department for review.
- 25. Update of Self-Assessment Forms**
- March 2011:** Board notices regulation for 45-day public comment period to update 16 CCR §1715, §1735.2, §1751 and §1784 and the self assessment forms incorporated by reference:
17M-13 Community Pharmacy & Hospital Outpatient Pharmacy Self-Assessment
17M-14 Hospital Pharmacy Self-Assessment
17M-26 Wholesaler Dangerous Drugs & Dangerous Devices Self-Assessment
17M-39 Community Pharmacy & Hospital Outpatient Pharmacy Compounding Self-Assessment
- May 2011:** Board approves rulemaking.
- June 2011:** Rulemaking submitted to the Department for review.

Objective 3.3	Review five areas of pharmacy law for relevancy, currency and value for consumer protection by June 30, 2011.
Measure:	Number of areas of pharmacy law reviewed.
Tasks:	<p>1. Initiate review of the pharmacist-in-charge requirement.</p> <p><i>Aug. 2007:</i> Staff and counsel review pharmacist-in-charge and designated representative-in-charge statutes and regulations for reporting requirements and make recommendations to amend various statutes and regulations.</p> <p><i>Oct. 2007:</i> Legislation and Regulation Committee reviews draft language to be incorporated into omnibus bill.</p> <p><i>Jan. 2008:</i> Board approves omnibus language recommended by Legislation and Regulation Committee.</p> <ul style="list-style-type: none"> • Section 4022.5 – Designated Representative; Designated Representative-in-Charge • Section 4036.5 – Pharmacist-in-Charge • Section 4101 – Pharmacist-in-Charge; Designation Representative-in-Charge; Termination of Status; Duty to Notify the board. • Section 4113 – Pharmacist-in-Charge; Approval; Responsibilities; Notifications • Section 4160 – Wholesaler Licenses • Section 4196 – Veterinary Food-Animal Drug Retailer Licenses; Persons Allowed in Areas Where Drugs are Stored, Possessed, or Repacked • Section 4305 – Pharmacist-in-Charge; Notice to Board; Disciplinary Action • Section 4329 – Nonpharmacists; Prohibited Acts • Section 4330 – Proprietors; Prohibited Acts <p><i>April 2008:</i> The following provisions are not incorporated into omnibus bill.</p> <ul style="list-style-type: none"> • Section 4101 – Pharmacist-in-Charge; Designation Representative-in-Charge; Termination of Status; Duty to Notify the board. • Section 4113 – Pharmacist-in-Charge; Approval; Responsibilities; Notifications • Section 4160 – Wholesaler Licenses • Section 4196 – Veterinary Food-Animal Drug Retailer Licenses; Persons Allowed in Areas Where Drugs are Stored, Possessed, or Repacked <p><i>Sept. 2008:</i> Governor vetoes SB 1779.</p> <p><i>Jan. 2009:</i> Board seeks to reintroduce provisions contained in SB 1779 via omnibus bill. Provisions contained in SB 819 and SB 821. Senate BP & ED introduce Omnibus bills containing previously-approved / Pharmacist-in-Charge provisions.</p> <p><i>Sept. 2009:</i> SB 819 and SB 821 enrolled and sent to the Governor.</p> <p><i>Oct. 2009:</i> Governor signs SB 819 and SB 821. Provisions go into effect January 2010.</p> <p>2. Update Protocol for Pharmacists Furnishing Emergency Contraception (EC) (§1746)</p> <p><i>July 2010:</i> Board begins working with the Medical Board to update the EC Protocol.</p> <p>3. Initiate review of Pharmacist-in-Charge Requirements.</p> <p>4. Review of Continuing Education for Pharmacists in Specific Areas.</p> <p><i>1st Qtr 10/11:</i> Board moves to pursue implementation of CE for specific content areas.</p>